

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-34464
Issue No.: 1005,1038,3029
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, April 10, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED], PATH Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits due to a failure to participate in employment and/or self-sufficiency-related activities without good cause?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FIP and FAP benefits.
2. On November 1, 2012, the Department sent Claimant a Work Participation Program Appointment Notice instructing her to attend an appointment on November 13, 2012. (Exhibit 1)
3. Claimant did not attend the November 13, 2012 appointment.

4. On November 26, 2012, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on December 3, 2012 to discuss whether good cause existed for the noncompliance. (Exhibit 2)
5. Claimant did not attend the triage meeting.
6. On November 26, 2012, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and reduce her FAP benefits effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3)
7. Claimant's FIP case closed effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities for a second time and a six month sanction was imposed.
8. Claimant's FAP benefits were reduced effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities.
9. On March 7, 2013, the Department received the Claimant's request for a hearing disputing the closure of her FIP case and the reduction of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

FIP

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (November 2012), p.

1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities. BEM 233A, pp 1, 2. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A, pp. 3, 4. Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, p. 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A. p.8-9. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (November 2012), p. 9. Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 7. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 8. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 6.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was deferred from participating in a work participation program due to medical reasons until September 2012. Because Claimant's deferral had ended, on November 1, 2012, the Department sent Claimant a Work Participation Program Appointment Notice instructing her to attend the work participation program on November 13, 2012. Although Claimant confirmed that she received the Appointment Notice, Claimant did not attend the work participation program on that date for her appointment. (Exhibit 1). The Department testified that due to Claimant's missing the appointment, on November 26, 2012, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on December 3, 2012 to discuss whether good cause existed for the noncompliance. (Exhibit 2). On November 26, 2012, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and reduce her FAP benefits effective January 1, 2013 for failure to participate

in employment and/or self-sufficiency-related activities. (Exhibit 3). BEM 233A, pp. 7-9; BAM 220, p. 9.

A triage meeting was conducted on December 3, 2012 for which Claimant did not appear. The Department concluded that Claimant did not have good cause for her missing the November 13, 2012 PATH program appointment and closed Claimant's FIP case effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities. BEM 233A, p. 8. At the hearing, the Department testified that in September 2010, Claimant's FIP case was closed due to noncompliance without good cause and a three month sanction was imposed. Because this was Claimant's second occurrence of noncompliance without good cause, the Department closed her FIP case and imposed a six month sanction. BEM 233A, p. 6.

At the hearing, Claimant testified that she never received the Notice of Noncompliance informing her of the triage meeting date, nor did she receive the Notice of Case Action. Claimant stated that she lived in the Township of Redford, but both Notices had Detroit listed as the city. The address and zip code were otherwise correct and Claimant did not have any trouble receiving other notices or communications from the Department. Therefore, Claimant failed to rebut the presumption that she received the Notice and good cause was not established as to why she did not attend the triage meeting on December 3, 2012. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Claimant testified that she did not attend the work participation program appointment on November 13, 2012 because she was participating in the Michigan Rehabilitation Services (MRS) program and was not aware that she also had to attend the work participation program. Claimant provided the Department with verification that she was participating in the MRS program on December 27, 2012. (Exhibit A). Under BEM 233A, clients must comply with triage requirements and provide good cause verification within the negative action period. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, pp. 7-8.

Although Claimant provided the Department with the MRS program information during the negative action period, participation with MRS is not a substitute for participation with the work participation program and is not considered a valid reason for deferral under BEM 230A (January 2013). Therefore, the Department properly terminated FIP benefits and imposed a six month penalty based on Claimant's noncompliance with employment and/or self-sufficiency-related required activities without good cause. Accordingly, the Department's actions are AFFIRMED.

FAP

Additionally, noncompliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (January 2013), p. 1. An individual is disqualified from a FAP group for noncompliance when the client had active FIP and FAP benefits on the date of the FIP noncompliance; the client did not comply with the FIP employment requirements; the

client is subject to penalty on the FIP program; the client is not deferred from FAP work requirements; and the client did not have good cause for the noncompliance. BEM 233B, p. 2.

In this case, the Department terminated Claimant's FIP benefits based on a reported failure to participate in employment and/or self-sufficiency-related activities without good cause. Although no Notice of Case Action was presented at the hearing and Claimant did not request a hearing regarding her FIP benefits, the Department testified that because of Claimant's noncompliance without good cause, Claimant was disqualified from her FAP group. As discussed above, the Department acted in accordance with policy when it terminated FIP benefits and imposed a six month penalty for non-participation. As such, the removal of Claimant from the FAP group is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause, imposed the six month penalty for non-participation and disqualified Claimant as a member of her FAP group. Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 18, 2013

Date Mailed: April 18, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.

- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

