

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

IN THE MATTER OF:



Reg. No.: 2013-34468
Issue No.: 1005,1038,3029
Case No.: [REDACTED]
Hearing Date: April 8, 2013
County: Wayne (17)

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 Monday, April 8, 2013. The Claimant appeared and testified with [REDACTED] who served as interpreter. Participating on behalf of the Department of Human Services ("Department") was [REDACTED] Family Independence Cash Specialist.

ISSUE

Did the Department properly close Claimant's cash assistance (FIP) case and reduce his food assistance (FAP) benefits due to a failure to participate in employment and/or self-sufficiency-related activities?

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 7, 2012, the Department sent Claimant a Work Participation Program Appointment Notice instructing Claimant's wife to attend an appointment on November 20, 2012. Claimant's wife did not attend this appointment. (Exhibit 1)

3. On November 30, 2012, the Department sent Claimant a Notice of Noncompliance instructing him to attend a triage appointment on December 6, 2012 to discuss whether good cause existed for his wife's noncompliance. (Exhibit 2)
4. On November 30, 2012, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits and reduce his FAP benefits effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3)
5. Claimant appeared at the triage meeting held on December 6, 2012 at which the Department determined that Claimant's wife had established good cause for the noncompliance because she alleged a disability.
6. Claimant's wife failed to attend a Medical Review Team (MRT) interview on February 5, 2013.
7. The Department closed Claimant's FIP case effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities and imposed a three month penalty.
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, Claimant filed a request for hearing disputing the Department's actions.

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.

Additionally, as a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities. BEM 233A (November 1, 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: employment for 40 hours/ week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, 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 this case, Claimant was an ongoing recipient of FIP benefits. As a condition of receiving FIP benefits, Claimant’s wife was referred to the Work Participation Program and instructed to attend an appointment on November 20, 2012. (Exhibit 1). Claimant’s wife failed to attend this appointment, which resulted in the Department sending Claimant a Notice of Noncompliance on November 30, 2012 instructing him to attend a triage meeting on December 6, 2012 to discuss whether good cause existed for his wife’s noncompliance. (Exhibit 2). Also on November 30, 2012, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits and reduce his FAP benefits effective January 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities. (Exhibit 3). At the triage, Claimant’s wife submitted a statement from her doctor indicating that she was disabled and unable to work. The Department determined that Claimant’s wife had good cause for her noncompliance, deferred her from participation in the Work Participation program, gave her an MRT packet to complete, which the Department acknowledged Claimant timely completed and returned, and referred Claimant’s wife to the JET MRT for an interview scheduled for February 5, 2013. See BEM 233A, p. 3-9; BEM 230A (November 2012), pp.10-11.

Although Claimant’s wife did not attend the JET MRT interview on February 5, 2013, Claimant and his daughter were present and informed the Department that Claimant’s wife was ill and unable to make it that day. At the hearing, the Department testified that because Claimant’s wife did not appear at the JET MRT interview herself on February 5, 2013, the next day, the Department closed Claimant’s FIP case and imposed a three month penalty effective January 1, 2013. 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 and provides the reason(s) for the action. BAM 220 (November 1, 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. If however, the client establishes good cause within the negative action period, the Department is to reinstate benefits and delete the negative action if the client provided the information to meet the requirement that caused the negative action. BEM 233A, p. 11; BAM 220 , p.10.

The Department testified that after Claimant's wife missed the JET MRT interview on February 5, 2012, it did not send Claimant a Notice of Noncompliance, nor did it conduct a triage meeting to determine if there was good cause for Claimant's wife's noncompliance. See BAM 220 and BEM 233A. The Department also failed to send Claimant a new Notice of Case Action informing him that his FIP case would be closing due to noncompliance; rather, it relied on the November 30, 2012 Notice of Case Action and improperly closed Claimant's FIP case effective January 1, 2013. Additionally, because Claimant's wife established good cause at the triage meeting on December 6, 2012, the Department should have reinstated the benefits and deleted the negative action notice sent to Claimant on November 30, 2012. BEM 233A, p. 11; BAM 220 , p.10. Claimant was entitled to continue to receive benefits pending the outcome of the MRT because good cause was established at the triage meeting. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective January 1, 2013 without sending Claimant a Notice of Noncompliance, conducting a triage meeting and sending a new Notice of Case Action after the missed JET MRT Interview on February 5, 2013 as required under Department policy.

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 (November 2012), p. 1. An individual is disqualified from a FAP group for noncompliance when (i) the client had active FIP and FAP benefits on the date of the FIP noncompliance; (ii) the client did not comply with the FIP employment requirements; (iii) the client is subject to penalty on the FIP program; (iv) the client is not deferred from FAP work requirements; and (v) the client did not have good cause for the noncompliance. BEM 233B, p. 2.

In this case, the Department terminated Claimant's FIP benefits effective January 1, 2013 based on his wife's reported failure to participate in employment and/or self-sufficiency-related activities without good cause. Although the Department testified that Claimant's FAP benefits were not reduced, the Department stated that in closing

Claimant's FIP case, it relied on a Notice of Case Action dated November 30, 2012. This Notice also informed Claimant that because of the reported failure to participate in employment and/or self-sufficiency-related activities without good cause, Claimant's wife would be disqualified from the FAP group, thereby reducing Claimant's FAP benefits. As discussed above, the Department did not act in accordance with policy when it terminated Claimant's FIP benefits and imposed a three month penalty for non-participation. As such, the removal of Claimant's wife from the FAP group which resulted in the reduction of FAP benefits is REVERSED.

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 did not act in accordance with Department policy when, effective January 1, 2013, it terminated Claimant's FIP benefits due to noncompliance without good cause; imposed the three month penalty for non-participation; and reduced Claimant's FAP benefits. Therefore, the Department's FIP and FAP decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FIP case effective January 1, 2013 in accordance with Department policy;
2. Begin recalculating the FAP budget to include Claimant's wife as a qualified FAP group member for January 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing supplements to Claimant for any FIP and FAP benefits that he was entitled to receive but did not from January 1, 2013, ongoing;
4. Begin reprocessing the deferral from Work Participation for Claimant's wife in accordance with Department policy; and
5. Notify Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: April 16, 2013

Date Mailed: April 16, 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

