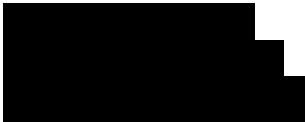


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



Reg. No.: 2013-40058  
Issue Nos.: 1038, 3029  
Case No.: [REDACTED]  
Hearing Date: May 6, 2013  
County: Wayne (82-15)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**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 held on May 6, 2013 from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

**ISSUES**

1. Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency-related activities without good cause?
2. Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's 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. Claimant failed to participate in employment and/or self-sufficiency-related activities without good cause on March 26, 2013.

3. On March 26, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective May 1, 2013, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. Exhibit 3.
4. On March 26, 2013, the Notice of Case Action also notified the Claimant that his FAP benefits were reduced effective May 1, 2013, in the amount of \$367 because he failed to participate in employment and/or self-sufficiency-related activities without good cause. Exhibit 3.
5. On March 26, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 2, 2013. Exhibit 2.
6. On April 2, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency-related activities.
7. On April 2, 2013, Claimant requested a hearing disputing his FIP termination and FAP reduction. Exhibit 4.

### **CONCLUSIONS OF LAW**

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

### **FIP Benefits**

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 230A, p. 1. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. 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 and must be verified. BEM 233A, p. 3. 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, pp. 3-5.

In this case, Claimant testified that he applied for a job (Employer) in the beginning of February 2013 as part of his PATH program participation requirements. On March 14, 2013, the Department received a phone call from the Hiring Manger of the Employer indicating that Claimant was not truthful on his application. Exhibit 1. The Department presented as evidence Case Notes which documented Claimant's history with the PATH program. Exhibit 1. Exhibit 1 indicated Claimant stated on his application that he received a felony at age twelve and had not since been in any trouble. Exhibit 1. Additionally, the Employer stated Claimant lied on this application because he received a felony three years prior to the application date along with twelve points showing on his driving record. Exhibit 1. The Employer would have given Claimant the opportunity to work if not for the falsification on the application. Exhibit 1.

Based on the Employer's contact and poor attendance with the PATH program, on March 26, 2013, the Department sent Claimant a Notice of Noncompliance, scheduling Claimant for a triage appointment on April 2, 2013. Exhibit 2. Claimant attended the triage on April 2, 2013. The Department did not find good cause for Claimant's work participation because (i) he falsified his application; (ii) did not provide legal documentation regarding the felony convictions; and (iii) poor attendance in job search activity during December 2012. Thus, Claimant's FIP benefits were closed and Claimant's FAP benefits were reduced effective May 1, 2013, because he failed to participate in employment and/or self-sufficiency-related activities without good cause. Exhibit 3.

At the hearing, Claimant presented as evidence a copy of the background investigation that was conducted by the Employer and was sent to Claimant on March 14, 2013. Exhibit A. A review of the document indicates that Claimant's last felony occurred in [REDACTED] and a disposition date in [REDACTED]. Exhibit A. Claimant testified that the Employer's application asked if Claimant had received any felony convictions within the last three years. Claimant testified that he did not have any felony convictions within the last three years. The Case Notes also notated that Claimant stated at triage that he did not have a felony three years ago. Exhibit 1. The Department did not provide any documentation to support the Employer's findings. Claimant did not provide Exhibit A at the time of triage.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it closed Claimant's FIP case. First, the Department relied on the Employer stating that Claimant did, in fact, have a felony three years ago. However, even though the background investigation received by Claimant before the triage was not provided to the Department at that time, the Employer provided the wrong information to the Department. A review of Exhibit A shows that Claimant received a felony(s) back in [REDACTED], which is more than three years ago. According to Claimant's testimony and Exhibit 1, Claimant stated he did not have a felony three years ago. Second, the Department testified that Claimant also had poor attendance in job search records during December of 2013. However, the Department did not provide any evidence showing the poor attendance records.

In summary, Claimant was truthful on his application based on the testimony and evidence provided. The Department relied on the Employer stating Claimant had a felony within three years; however, that information was rebutted by Claimant's testimony and Exhibit A which indicated he did not have a felony within three years. The Department also failed to provide any evidence showing poor attendance. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for a three -month minimum. BEM 233A, pp. 1 and 6.

### **FAP Benefits**

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that Claimant had failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 6. Because the Department did not properly close Claimant's FIP case, it improperly reduced Claimant's FAP benefits by excluding him as a disqualified member of his FAP group. BEM 233B (January 2013), pp. 1 - 9.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly closed Claimant's FIP case and reduced his FAP benefits.

**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 act properly.       did not act properly.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA decision is  
 AFFIRMED  REVERSED for the reasons stated above and on the record.

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 and FAP benefits as of May 1, 2013, ongoing;
2. Remove Claimant's first FIP and FAP sanction from his case; and
3. Issue supplements to Claimant for any FIP and FAP benefits he was eligible to receive but did not from May 1, 2013, ongoing.



**Eric Feldman**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 8, 2013

Date Mailed: May 9, 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

EJF/pf

cc:

