

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

IN THE MATTER OF:

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████████████████████

Reg No.: 2013-40156
Issue No.: 1038
Case No.: 1██████████6
Hearing Date: July 26, 2013
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Friday, July 26, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was ████████████████████.

ISSUE

Whether the Department properly terminated the Claimant's cash assistance case effective April 1, 2013, due to non-compliance with work-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 FIP recipient.
2. On February 5, 2013, a Partnership. Accountability Training. Hope. ("PATH") Appointment Notice was mailed to Claimant instructing her to appear on February 19, 2013. (Exhibit 1, p. 6)
3. On February 25, 2013, the Department sent a Notice of Non-compliance to Claimant instructing her to attend a triage appointment to discuss whether good cause existed for the PATH non-compliance.

4. On February 25, 2013, the Department sent a Notice of Case Action (“NOCA”) to Claimant, informing her that effective April 1, 2013, her FIP benefits would terminate based on non-compliance with work-related activities. (Exhibit 1, pp. 7 – 10)
5. The February 25th NOCA also notified Claimant that effective April 1st her Food Assistance Program (“FAP”) benefits would be reduced from \$367.00 to \$200.00. (Exhibit 1, pp. 7 – 10)
6. Claimant’s FIP benefits terminated effective April 1, 2013. (Exhibit 1, p. 27)
7. On April 8, 2013, the Department received Claimant written request for hearing, protesting the termination of benefits.
8. On May 2, 2013, the Department increased Claimant’s FAP benefits back to \$367.00 with no loss of benefits. (Exhibit 1, pp. 11 – 13, 28)
9. On May 2nd, the Department determined good cause existed for Claimant’s non-compliance with work-related activities. (Exhibit 1, p. 14)

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant’s FAP benefits were reduced as a result of a reported PATH non-compliance. Subsequently, the Department reinstated Claimant’s FAP benefits back to the original amount with no lapse of coverage. Claimant was not disputing this issue.

Department policies are contained in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“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, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (“ADC”) program effective October 1, 1996.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. A Work Eligible Individual (“WEI”) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Depending on the case situation, penalties include a delay in eligibility at application; case closure for a minimum of three months for the first episode of non-compliance, six months for the second episode; and lifetime closure for the third episode of non-compliance. BEM 233A, pp. 1, 6. As a condition of eligibility,

all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 1. 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.

PATH participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A, pp. 8, 9.

At intake, redetermination, or anytime during an ongoing benefit period, when an individual claims to be disabled, or indicates an inability to participate in work or PATH for more than 90 days due to a physical or mental impairment, the client must provide verification of the disability. BEM 230A (January 2013), p. 10. During this process, Claimant is deferred from PATH participation under the status of "establishing incapacity." BEM 230A, p. 10. Once requested verifications are received, the Department forwards the information to the Medical Review Team ("MRT") for a determination of whether Claimant is able, or unable to, participate with work-related activities. (BEM 230A, pp. 10, 11)

In this case, Claimant asserted she was unable to participate in work-related activities due to disability. Despite this, Claimant was referred to the PATH program. Subsequently, a Notice of Non-compliance and a Notice of Case Action was sent to Claimant regarding the failure to participate with work-related activities. Based on the submitted record, it is unclear whether a triage was held within the negative action period (before April 1st) as required by policy. Claimant's benefits terminated as of April 1st.

On May 2, 2013, the Department found good cause was established for the PATH non-compliance which should have resulted in the reinstatement of Claimant's FIP benefits. During this same time, the Department determined that Claimant had exceeded 60 months of federally funded FIP benefits, which may have prevented the reinstatement of FIP benefits. On June 26th, a hearing was held regarding the 60 month issue whereby the Department was ordered to reinstate Claimant's benefits from the closure date based on the Department failure to meet its burden to establish Claimant had met, or exceeded, the FIP time limits.

During the hearing, a the Federal and State FIP counters were reviewed. The Federal counter shows that as of August 2008, Claimant received 93 months of federally-funded cash assistance. Thereafter, Claimant received state-funded FIP benefits. In April 2012 through March 2013, Claimant was exempt from participation based on being "Incapacitated to Work" yet she was listed as a "Mandatory Participant" resulting in those months being counted against her. Claimant cannot be a mandatory participant while being incapacitated to work. Regardless, the issue presented at this hearing, related to the FIP closure effective April 1, 2013. Department determined Claimant had

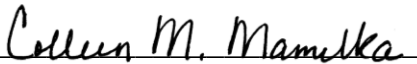
good cause (albeit after the closure) which should have resulted in the reinstatement of FIP benefits. Further, there was no evidence that the Department properly processed Claimant's deferral request. Ultimately, the Department failed to establish it acted in accordance with Department policy when it terminated Claimant's FIP benefits effective April 1, 2013.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when it terminated the Claimant's FIP benefits effective April 1, 2013.

Accordingly, it is ORDERED:

1. The Department's termination of FIP benefits effective April 1, 2013 is REVERSED.
2. The Department shall initiate reinstatement of Claimant's FIP benefits effective April 1, 2013, ongoing, in accordance with department policy.
3. The Department shall initiate supplementation of FIP benefits that Claimant was entitled to receive but did not, effective April 2013, if otherwise eligible and qualified and in accordance with Department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 31, 2013

Date Mailed: August 5, 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

CMM/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
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