

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201343269  
Issue No.: 1038; 3029  
Case No.: [REDACTED]  
Hearing Date: May 23, 2013  
County: Wayne (15)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED] PATH Case Manager.

**ISSUE**

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits for failure to participate in employment-related activities without good cause.

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits for failure to comply with employment-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 and was required to participate in employment-related activities.
2. On April 9, 2013, the Department sent Claimant a Notice of Noncompliance scheduling a triage on April 16, 2013.

3. On April 9, 2013, the Department sent Claimant a Notice of Case Action closing her FIP case for a three-month minimum and reducing her FAP benefits for a one-month minimum, effective May 1, 2013, based on her failure to participate in employment-related activities without good cause.
4. On April 16, 2013, Claimant participated in the triage.
5. The Department held the triage and found that Claimant had failed to comply with employment-related activities and did not have good cause for the noncompliance.
6. On May 1, 2013, Claimant filed a request for a hearing disputing the Department's action.

### **CONCLUSIONS OF LAW**

Department policies are contained in the 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 1999 AC, R 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, R 400.3001 through Rule 400.3015.

#### **FIP Case Closure**

Unless temporarily deferred or engaged in activities that meet participation requirements, work eligible individuals seeking FIP are required to work or participate in a work participation program or other employment-related activity. BEM 230A (January 2013), pp 1, 4; BEM 233A (January 2013), p 1. The Department may close the FIP case of a client who fails to comply with required activities if after a properly held triage it determines that the client did not have good cause for the noncompliance. BEM 233A, pp 2-4, 7-8.

In this case, the Department testified that, as a condition of her FIP eligibility, Claimant was required to participate in 30 hours of employment or employment-activities weekly. Claimant acknowledged at the hearing that she was aware of this requirement. At the hearing, Claimant's work participation program case manager testified that during the weeks beginning March 3, 2013; March 10, 2013; March 17, 2013; and March 24, 2013,

Claimant's weekly hours of community service were 5 hours, 16 hours, 11 hours and 7 hours respectively, and because she worked about 12 hours weekly, her weekly hours in required activities were less than 30. The evidence at the hearing established that Claimant's community service hours, combined with her actual employment hours during each of the weeks at issue, resulted in employment and community services hours totaling below 30 hours each week. The work participation case manager credibly testified that he was aware that Claimant's work hours averaged about 12 hours weekly and that, because of her employment, the number of hours she could participate in community service was reduced, but he added that he had notified Claimant that she could report to the work program's offices to make up any missing time to reach the 30 hours of weekly participation. Claimant did not do so.

At the hearing, Claimant explained that she had car issues in February 2012 and had less employment hours than she had hoped, and when she notified her case manager about these issues, he had told her he would give her some time to get things together. Claimant did testify that she was able to get transportation to her employment and community service despite her car issues. The case manager responded that he attempted to assist Claimant but was compelled to refer her case to triage because she continued to be unable to obtain the 30 hours of required activity throughout March 2013, even after he had advised her that she could attend programs at the work participation program to meet her required minimum hours.

Based on the evidence presented, the Department acted in accordance with Department policy when it concluded that Claimant had not complied with her work participation program requirements and had not presented any evidence to establish good cause for her noncompliance. See BEM 233A, pp 3-5. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case, and, because this was Claimant's first occurrence of noncompliance with FIP-related employment activities, penalized her FIP case with a three-month minimum closure. See BEM 233A, p 6.

#### FAP Benefit Reduction

The April 9, 2013, Notice of Case Action removed Claimant as a member of her FAP group based on her noncompliance with employment-related activities for a one-month minimum, which resulted in a reduction in the group's FAP benefits. If a client is active FIP and FAP at the time of a FIP noncompliance, the client is disqualified as a member of her FAP group unless there is a finding of FAP good cause. FAP good cause is established if the client satisfies a FIP deferral criteria or good cause reason, or if the FAP deferral reason of care of a child under 6 or education applies. Because Claimant did not (i) meet any of the FIP deferral reasons, (ii) provide good cause for the FIP noncompliance, (iii) care for a child under 6, or (iv) present any evidence showing that she was enrolled in a post-secondary education program and working an average of 30 hours or more per week, she failed to establish any basis to avoid the FAP disqualification penalty. See BEM 230B (January 2013), p 4.

A client is disqualified from her FAP group for a minimum of one month for the first occurrence of a FAP penalty for FIP employment-related noncompliance, and for a minimum of six months for the second and subsequent occurrence of a FAP penalty for a FIP-employment-related noncompliance, with the disqualification continuing until the client reestablishes FAP eligibility as required under BEM 233B. See BEM 229 (January 2013), p 5; BEM 233B (January 2013), p 5. The Department acted in accordance with Department policy when it removed Claimant as a qualified member of her FAP group for a one-month minimum.

### **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 closed Claimant's FIP case for a three-month minimum and reduced Claimant's FAP group size and benefits for a one-month minimum.

Accordingly, the Department's FIP and FAP decision is AFFIRMED.



**Alice C. Elkin**  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 5/31/2013

Date Mailed: 5/31/2013

**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

ACE/hw

cc:

