

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

IN THE MATTER OF:



Reg. No.: 2013-46720
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: June 10, 2013
County: Wayne (82-49)

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 June 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

1. 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.
2. 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 May 3, 2013, the Department sent Claimant (i) a Notice of Noncompliance scheduling a triage on May 9, 2013, and (ii) 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 June 1, 2013, based on her failure to participate in employment-related activities without good cause.

3. On May 9, 2013, Claimant participated in the triage by phone.
4. The Department concluded that Claimant had failed to comply with employment-related activities and did not have good cause for the noncompliance.
5. On May 10, 2013, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

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

In a May 3, 2013, Notice of Case Action, the Department notified Claimant that, effective June 1, 2013, her FIP case would close and her FAP benefits would be reduced due to her failure to comply with employment-related activities without good cause. Although Claimant requested a hearing concerning her FIP, FAP, Medical Assistance (MA) and Child Development and Care (CDC) cases, her testimony at the hearing established that when she requested a hearing on May 10, 2013, she was concerned about the Department's actions concerning her FIP and FAP cases in connection with its finding that she was not in compliance with employment-related activities. Further, Claimant's request for hearing was tied to the May 3, 2013, Notice affecting her FIP and FAP cases.

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-related activities weekly. See BEM 228 (January 2013), p. 12. The Department testified that Claimant received 10 hours of weekly credit for her participation in a GED program. Because she averaged less than 4 hours of weekly employment, the Department testified that Claimant was required to participate in community service for her remaining weekly hours. While the Department's testimony was unclear regarding when the alleged noncompliance began, the Department clearly alleged that Claimant failed to verify her 30 hours of weekly participation for the month of April 2013.

Before closing a client's FIP case, the Department must first schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. The Department testified that a triage was held on May 9, 2013, and that Claimant participated in the triage by phone. Although Claimant denied agreeing to participate in the triage by phone, there was also evidence that the Department met with Claimant in person on May 14, 2013, to discuss her case. Because the Department afforded Claimant the opportunity to participate in an in-person meeting, the Department acted in accordance with Department policy when it conducted the triage. See BEM 233A, p. 7. Based on the evidence presented, the Department concluded that Claimant had failed to establish good cause for her noncompliance and prepared to close her FIP case and reduce her FAP benefits.

Because Claimant participated in the triage, Claimant's explanation of her issues was considered at the hearing. At the hearing, Claimant acknowledged (i) that she was aware she was required under the terms of the work participation program to verify 30 hours of participation weekly, (ii) that she received 10 hours credit for her GED classes, (iii) that she worked between 4 and 8 hours weekly, and (iv) that her 4 to 8 hours of weekly employment and her GED credit did not total the required 30 hours. Claimant testified that she had applied for a community service program at her local [REDACTED] and was in the process of obtaining approval to participate in these programs when the Department closed her case. However, the Department credibly testified that it had offered to place Claimant in three different establishments in which it had a partnership, but Claimant elected to pursue her own community service project. Claimant failed to obtain any community service hours during the month of April 2013. As a result, she did not satisfy her required 30 hours of weekly participation. Based on these facts, the Department established that Claimant did not comply with her FIP employment-related activities.

At the hearing, Claimant testified that she had issues obtaining child care for her eleven-year-old son in order to participate in her required activities. A client can establish good

cause for noncompliance if she requested child care services from the Department or the employment services provider prior to case closure for noncompliance and child care is needed for an eligible child but none is appropriate, suitable, affordable, and within reasonable distance of the client's home or work site. BEM 233A, p. 4.

In this case, the Department acknowledged that Claimant had presented concerns about child care to the Department or the work participation program prior to case closure. The PATH coordinator testified that Claimant was referred to Great Start Connect in accordance with Department policy. BEM 230A, p. 7. Claimant testified that she was unsatisfied with the options presented and wished to pursue her own day care provider. However, Claimant failed to verify that there was no day care provider that was appropriate, suitable, affordable and within reasonable distance of the client's home or work site. In the absence of such documentation, Claimant has failed to verify any good cause for her noncompliance based on child care issues. BEM 233A, pp. 3-4.

Claimant also raised concerns about whether she would receive bus tickets for her community service. The Department established that it would provide Claimant with five bus tickets weekly, allowing her ten rides and transfers when she could establish a need for such transportation. However, because Claimant was never engaged in any community service program prior to her triage, the issue concerning transportation did not establish good cause for her noncompliance.

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 Claimant's FIP case with a three-month minimum closure. See BEM 233A, p. 6.

FAP Benefit Reduction

The May 3, 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. 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, 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: June 17, 2013

Date Mailed: June 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 affect 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

2013-46720/ACE

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

