

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54454
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: July 22, 2013
County: Wayne (82-15)

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 July 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to comply with employment-related activities without good cause?
2. Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits based on Claimant's 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.
2. On June 19, 2013, the Department sent Claimant a Notice of Noncompliance notifying her of her noncompliance with FIP-related employment activities and scheduling a triage on June 25, 2013.

3. On June 25, 2013, Claimant attended the triage and raised issues of her grandfather's funeral, illness and homelessness to explain her noncompliance.
4. The Department concluded that Claimant had failed to establish good cause for her noncompliance.
5. On June 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective August 1, 2013, her FIP case would close and her FAP benefits would be reduced because she had failed to comply with employment-related activities and had no good cause for her noncompliance.
6. The Department imposed a first sanction for failure to comply with employment-related obligations resulting in the closure of Claimant's FIP case for a three-month minimum and the reduction of FAP benefits for a one-month minimum.
7. On June 25, 2013, Claimant filed a request for a hearing disputing the Department's actions.

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.

Additionally, on June 19, 2013, the Department sent Claimant a Notice of Case Action advising her that, effective August 1, 2013, based on her noncompliance with employment-related activities without good cause, her FIP case would close for a minimum three-month period and she would be excluded as a member of her FAP group, resulting in a reduction of her FAP benefits, for a one-month minimum.

In order to increase their employability and obtain employment, work eligible individuals (WEIs) seeking FIP are required to participate in the PATH program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1; BEM 233A (January

2013), p. 1. Failing or refusing to appear and participate with PATH or other employment service provider or participate in required activity without good cause constitutes a noncompliance with PATH required activities justifying closure of a client's FIP case. BEM 233A, pp. 1-2.

In this case, the PATH program case manager advised Claimant that she was required to participate in community services for 26 hours weekly. Claimant did not participate in any community service for the week of [REDACTED], and did not call to explain her lack of participation. Thus, Claimant did not comply with PATH activities for the week of [REDACTED]. Although the PATH representative at the hearing also contended that Claimant had not been consistently in compliance with her community service over a longer period of time, the Department only established noncompliance for the week of [REDACTED]

However, PATH participants will not be terminated from PATH without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. On June 19, 2013, the Department sent Claimant a Notice of Noncompliance notifying her of the noncompliance and scheduling a triage on June 25, 2013. Claimant attended the triage.

At the triage, the client has the opportunity to present her good cause explanation for any noncompliance. BEM 233A, pp. 3-4. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person and includes an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, pp. 3, 5. Good cause must be based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p. 8.

At the hearing, the Department testified that, at the triage, Claimant explained that her noncompliance was due to attending her grandfather's funeral, an illness, and her homelessness. The Department testified that Claimant presented a document from the funeral home showing that the funeral took place on [REDACTED] but no further documentation. The Department concluded that, because the funeral did not explain Claimant's failure to participate between [REDACTED], and because Claimant had not raised her illness or homeless prior to the triage date and had not presented any documentation to support those allegations, she had failed to establish good cause for her noncompliance.

Claimant responded at the hearing that she only brought in documentation concerning her grandfather's funeral because she was led to believe that her noncompliance was her failure to participate in community service on the date of the funeral. The Notice of Noncompliance lists a noncompliance date of [REDACTED], supporting Claimant's contention that she was unaware of the noncompliance at issue. A Notice of Noncompliance should list the date of the initial noncompliance as well as all the dates of noncompliance if more than one incident is addressed. BEM 233, pp. 8-9. Because

the Notice of Noncompliance did not clearly identify the dates of noncompliance, Claimant was provided the opportunity at the hearing to explain and verify her good cause.

At the hearing, Claimant explained that she was unable to attend her community service the week of [REDACTED], because of a foot injury. A debilitating illness or injury *may* constitute good cause for noncompliance. BEM 233A, p. 4. Claimant presented documentation from [REDACTED] showing that she was examined for a broken toe. However, a review of the documentation presented shows inconsistent dates, with [REDACTED] shown at the top of the report and [REDACTED] above the discharge instructions, and the [REDACTED] date appears to have been altered. Because the document is internally inconsistent and has been altered, it fails to provide verification of Claimant's injury for the week of [REDACTED]. Furthermore, the PATH representative at the hearing credibly testified that Claimant did not contact her during the week at issue to inform her that she was injured. Thus, Claimant has failed to establish good cause for her noncompliance based on her injury.

At the hearing, Claimant also referenced the fact that she was homeless. Homelessness, when an unplanned event that significantly interferes with employment and/or self-sufficiency-related activities, can constitute good cause for noncompliance. BEM 233A. However, in this case, Claimant testified that she had been dealing with her homelessness issue since she applied for benefits in August 2012. Therefore, it was an ongoing issue rather than an unplanned event. Further, the Department testified that Claimant had never identified her housing situation as a barrier to her participation in PATH. Claimant admitted at the hearing that she planned on participating in PATH despite her housing issues. Under these facts, Claimant's housing issues do not constitute good cause for her noncompliance with her PATH activities for the week of [REDACTED].

Based on the facts presented, the Department acted in accordance with Department policy when it concluded that Claimant failed to establish good cause for her noncompliance. Because this was Claimant's first occurrence of noncompliance, the Department properly closed Claimant's FIP case and imposed a three-month sanction. BEM 233A, p. 6.


Because Claimant's FIP case was properly closed based on her noncompliance with employment-related activities without good cause, Claimant is a disqualified member of her FAP group. BEM 230A, p. 1; BEM 233B (January 2013), p. 5; BEM 212 (November 2012), pp. 6-7. As a result, she is excluded from her FAP group size during the FAP disqualification period and her group's FAP benefits were properly reduced based on her exclusion from her FAP group. BEM 212, p. 7.

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 and reduced her FAP benefits for failure to comply with employment-related activities without good cause.

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: July 24, 2013

Date Mailed: July 24, 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

2013-54454/ACE

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

ACE/pf

cc:

