

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-54498
Issue Nos.: 1038;3029
Case No.: ██████████
Hearing Date: July 22, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted from Detroit, Michigan on July 22, 2013. Claimant appeared and testified. Participants on behalf of the Department of Human Services ("Department") included ██████████ JET Worker.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce his Food Assistance Program (FAP) benefits due to a 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. On April 1, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on April 10, 2013. (Exhibit 3)
3. On June 5, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on June 13, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 4).

4. On June 5, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits, reduce her FAP benefits and impose a six month FIP sanction effective July 1, 2013 for her failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 6)
5. On June 24, 2013, the Department sent Claimant a Notice of Case Action informing her that effective July 1, 2013, her FAP benefits would be increased and that she was approved for FAP benefits in the amount of \$367.00. (Exhibit 7).
6. On June 21, 2013, the Department received the Claimant's request for a hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

FIP

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, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (January 2013), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency-related activities, among other things. BEM 233A, pp 1-2. 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, 4.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences

discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, p. 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A, p.8-9. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (November 2012), p. 9. Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp.7-8 Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 7.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 8. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 6.

In this case, as a condition of receiving FIP benefits, Claimant was required to attend the PATH program for at least 20 hours per week. Claimant attended PATH until June 5, 2013 and on June 10, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on June 13, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 4). On June 5, 2013, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits, reduce her FAP benefits and impose a six month FIP sanction effective July 1, 2013 for her failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 6);BEM 233A, pp. 7-9;BAM 220, p. 9.

A triage meeting was conducted on June 13, 2013 at which Claimant did not appear. At the triage, the Department concluded that Claimant did not have good cause for her lack of participation in PATH and closed Claimant's FIP case closed effective July 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a six month sanction was imposed. (Exhibit 4);BEM 233A, pp.6, 8.

At the hearing, Claimant testified that she was not able to attend PATH on June 5, 2013 because she did not have any way to get there and that the person who was watching her daughter while she attended PATH had found a new job and was no longer able to provide child care. Claimant stated that she contacted her PATH worker to inform her that she was unable to attend PATH that day and was told that she would be receiving

paperwork in the mail rescheduling her PATH appointment. Claimant testified that she contacted the Department a few days later because she had not received any paperwork rescheduling her PATH appointment but no one responded to her messages.

Claimant further testified that she did not attend the triage because she was ill that day. Claimant stated that she spoke to her Department worker the morning of the triage meeting and asked that the triage be rescheduled for a different time. Claimant testified that she was told by her Department worker that in order for the triage to be rescheduled, she had to contact the PATH program. Claimant called her PATH worker and left two messages, with no response.

Lack of transportation and child care are listed as good cause reasons for noncompliance in a work participation program. BEM 233A, p. 4. Because Claimant credibly testified that she contacted both the Department and the PATH program prior to her noncompliance on June 5, 2013 and attempted to have her triage meeting rescheduled, the Department should have found good cause not closed Claimant's FIP case.

Accordingly, it is found and determined that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits and imposed a six month penalty.

FAP

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 Mich Admin Code, Rule 400.3001-3015.

Additionally, noncompliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (January 2013), p. 1. An individual is disqualified from a FAP group for noncompliance when the client had active FIP and FAP benefits on the date of the FIP noncompliance; the client did not comply with the FIP employment requirements; the client is subject to penalty on the FIP program; the client is not deferred from FAP work requirements; and the client did not have good cause for the noncompliance. BEM 233B, p. 2.

In this case, Claimant requested a hearing to dispute the reduction of her FAP benefits based on her noncompliance with the employment requirements for FIP. Shortly after commencement of the hearing, the Department testified that it reduced Claimant's FAP benefits in error and that it corrected the action. Claimant testified that she now understood and was satisfied with the actions taken by the Department and did not wish

to proceed with the hearing regarding her FAP benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

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 Claimant's hearing request with regards to FAP is DISMISSED.

The Administrative Law Judge further finds that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits and imposed a six month sanction due to noncompliance without good cause. Accordingly, the Department's FIP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the sanction that was imposed on Claimant's FIP case;
2. Initiate reinstatement of Claimant's FIP case effective July 1, 2013 in accordance with Department policy and consistent with this Hearing Decision; and
3. Begin issuing supplements to Claimant for any FIP benefits that she was entitled to receive but did not from July 1, 2013, ongoing.



Zainab Baydoun

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

Date Signed: July 31, 2013

Date Mailed: July 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

ZB/cl

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