

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-69924
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly close Claimant's case for Family Independence Program (FIP) benefits and reduce her Food Assistance Program (FAP) benefits based on a failure to participate in 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 with a group size of three (her and her two children) under each program.
2. As a condition of her receipt of FIP benefits, Claimant was required to participate in 20 weekly hours of employment and 10 weekly hours in a preapproved educational program.

3. On July 15, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the work participation program and scheduling a triage on July 23, 2013, and (ii) a Notice of Case Action notifying her of the closure of her FIP case effective August 1, 2013, for a three-month minimum based on her noncompliance with employment-related activities without good cause.
4. When the Department became aware that Claimant had not received the Notice of Noncompliance, it sent her an August 9, 2013, Notice of Noncompliance concerning the same noncompliance scheduling a triage on August 16, 2013.
5. On August 9, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP redetermination was complete and that, effective August 1, 2013, her FAP benefits were recertified for August 1, 2013, to July 31, 2014, and she was approved for FAP benefits for a group size of two. The Notice explained that the decreased group size was due to the employment-related sanction.
6. An in-person triage took place on August 13, 2013.
7. At the triage, the Department concluded that Claimant did not have good cause for her noncompliance and closed her FIP case and reduced her FAP benefits.
8. On September 17, 2013, Claimant filed a request for hearing disputing the Department's actions concerning her FIP case and the calculation of her FAP benefits.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Claimant requested a hearing concerning the Department's closure of her FIP case and reduction of her FAP benefits effective August 1, 2013, due to a noncompliance with employment activities. Claimant was also concerned because the calculation of her FAP benefits did not include her utility expenses.

At the hearing, the Department testified that Claimant had reapplied for FIP benefits and she was approved for FIP benefits effective November 1, 2013, and was included back as a qualified member of her FAP group as of October 1, 2013. This Hearing Decision does not affect that Department action.

FIP Case Closure

As a condition of continued FIP eligibility, work eligible individuals (WEIs) are required to participate in a work participation 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. A FIP group containing only one WEI parent with the youngest child in the group six years old or older is required to participate in 30 hours of weekly eligible activities. BEM 228 (January 2013), pp. 9-12. In this case, the work participation program specialist testified that Claimant, whose children are older than six, was required to provide verification of 30 hours of weekly participation, 20 hours through employment and ten through education. Claimant was participating in an online educational course through [REDACTED]

The Department acknowledged that Claimant established 20 hours of weekly employment but contended that Claimant had not provided adequate verification of her online educational participation June 10, 2013, to July 15, 2013, and provided no verification of participation for the week of June 2, 2013. A client's failure to participate in required activity or to provide legitimate documentation of work participation constitutes a noncompliance with employment or self-sufficiency-related activities. BEM 233A, pp. 1-2.

A triage to address the alleged noncompliance and any good cause explanation was held on August 13, 2013. Claimant attended the triage and argued that she had participated in the online education course in accordance with her FIP requirements and she provided documentation of her participation. The Department countered that Claimant's documentation was insufficient because it consisted of a syllabus of required coursework that failed to establish her participation and time spent on the online courses.

At the hearing, Claimant explained that she was unable to provide any documentation of her attendance in the online program other than the documentation she had provided, contending that the program did not offer any option to print her weekly online participation, and added that she did not have a printer. The work participation program specialist testified, consistent with her notes prepared at the time, that she had ongoing conversations with Claimant seeking verification of her participation in educational activity. The specialist's testimony established that she explained to Claimant the

verification being sought. Because the documentation provided did not establish Claimant's 10 hours of weekly participation for the period between June 2, 2013, and July 15, 2013, the Department acted in accordance with Department policy when it concluded that Claimant was noncompliant with the PATH program and did not have good cause for her noncompliance.

Reduction in FAP Benefits


The Department testified that Claimant's FAP benefits were reduced because the FIP noncompliance resulted in Claimant being a disqualified member of her FAP group and left only two eligible FAP group members. If a client is an active FIP and FAP recipient at the time of a FIP noncompliance, the client is disqualified as a member of his FAP group unless there is a finding of FAP good cause, which includes, among other things, (i) meeting FIP participation requirements or providing good cause for the FIP noncompliance; (ii) meeting a FIP deferral criteria outlined in BEM 230A; or (iii) enrollment in a post-secondary education program. BEM 230B (January 2013), pp. 3-4; BEM 233B (January 2013), p. 1-2; BEM 245 (July 2013), p. 8.

In this case, Claimant failed to establish her compliance with the educational component of her work-required FIP activities. As such, she could not rely on her school enrollment to avoid the FAP disqualification. As discussed above, Claimant was noncompliant with the FIP program, and, based on the evidence presented, she did not meet any of the FIP deferral criteria. See BEM 230A, pp. 6-11. Because Claimant failed to establish any FAP good cause that would prevent her from being disqualified from her FAP group, the Department acted in accordance with Department policy when it disqualified her from her FAP group, leaving her with a FAP group size of two, and reduced her FAP benefits.

Claimant was also concerned because the calculation of her FAP benefits did not take into account her actual utility expenses. Department policy provides that all FAP groups receive the heat and utility standard in lieu of any other individual utility expenses. BEM 554 (October 2012), pp. 11-12. At the time Claimant was notified of her August 1, 2013, ongoing FAP benefits, the heat and utility standard was \$575. RFT 255 (October 2012), p. 1. Because the August 9, 2013, Notice of Case Action notifying Claimant of her recertified FAP benefit period shows that the Department considered the \$575 heat and utility standard in calculating her FAP benefits, the Department acted in accordance with Department policy.

DECISION AND ORDER

Accordingly, the Department's FIP and FAP decisions are AFFIRMED.


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

Date Signed: October 29, 2013

Date Mailed: October 29, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ACE/pf

cc:

