

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201434479
Issue No(s): 1008;3000
Case No.: [REDACTED]
Hearing Date: May 19, 2014
County: Wayne 35

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 May 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator; [REDACTED], Job Developer for PATH; [REDACTED], PATH Case Manager; [REDACTED], PATH program; and [REDACTED], PATH Coordinator.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) benefits and close her Family Independence Program (FIP) case?

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 FAP and FIP benefits.
2. There was no negative action taken with respect to Claimant's FAP benefits.
3. On February 14, 2014, the Department sent Claimant a Noncompliance Warning Notice instructing her to attend a reengagement meeting on February 20, 2014. (Exhibit 1)

4. On March 20, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on March 27, 2014, to discuss the noncompliance. (Exhibit 3)
5. On March 20, 2014, the Department sent Claimant a Notice of Case Action informing her that effective April 1, 2014, her FIP case would be closing and a three month sanction imposed, based on a failure to participate in employment related activities without good cause. (Exhibit 4)
6. On March 24, 2014, Claimant submitted a hearing request disputing the Department's actions.

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).

FAP

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The hearing was requested to dispute the Department's action taken with respect to Claimant's FAP benefits. Shortly after commencement of the hearing, Claimant testified that she understands and is satisfied with the actions taken by the Department and that she no longer had any issues to address with respect to her FAP case. Claimant confirmed that she did not wish to proceed with the hearing, as she had active and ongoing FAP benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (July 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 1-4. 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. 4-6.

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, pp. 4-6. 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.9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (January 2014). 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, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. 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. 8.

In this case, as a condition of receiving FIP benefits, Claimant was enrolled in the Vocational Education Training (VET) program and required to submit weekly education logs to the Department. The Department testified that because Claimant was not submitting her weekly education logs, it sent Claimant a Noncompliance Warning Notice and instructed her to attend a reengagement meeting on February 20, 2014, which she did. (Exhibit 1). At the reengagement meeting, it was discovered that Claimant was no longer able to attend her college classes and submit education logs because she was unable to purchase books for her classes. As such, the Department ended Claimant's

participation in PATH based on the VET program and enrolled her in job search which she was to begin effective February 21, 2014. (Exhibit 2). The Department stated that Claimant was instructed to return to the Department for a meeting with a PATH job developer on February 24, 2014, and to bring with her completed job search logs. The Department testified that because Claimant did not attend the meeting on February 24, 2014, it sent Claimant a Notice of Noncompliance on March 20, 2014, informing her that she was required to attend a triage meeting on March 27, 2014, to discuss whether or not she had good cause for her failure to attend the meeting. (Exhibit 3)

A triage was conducted on March 27, 2014, at which Claimant appeared. At the triage, Claimant informed the Department that she could not complete job search for the few days following the reengagement meeting and that she missed her appointment on February 24, 2014, because she had the flu and was sick. Claimant provided the Department with discharge instructions from the hospital where she was treated. (Exhibit 5). The Department concluded that Claimant did not have good cause for her failure to cooperate with employment related activities, and initiated the closure of her FIP case, effective April 1, 2014. (Exhibit 4)

At the hearing, the Department initially testified that because Claimant did not provide proof of her school attendance logs at the triage, it was determined that she had no good cause. The Department later testified that Claimant actually failed to submit job search logs, however, did not provide additional details regarding what weeks of job search logs Claimant failed to submit. The Department then testified that it discovered after the triage that Claimant had exhausted her job search hours and was no longer eligible to fulfill the PATH requirements by submitting job search logs, so she was informed that she was now required to perform community service activities.

The Department continued to provide conflicting testimony throughout the hearing and was unable to accurately explain exactly what happened with respect to Claimant's FIP case. The documents presented by the Department for review do not support the testimony provided at the hearing.

A review of the evidence reveals that Claimant was placed in noncompliance based on a failure to attend a meeting. Although the Notice of Noncompliance indicates this meeting was scheduled for February 26, 2014, the Department and Claimant agreed that the meeting was actually scheduled for February 24, 2014. (Exhibit 3). Claimant provided a letter from the hospital in support of her testimony that she could not attend the meeting on February 24, 2014, and that she could not complete job search for the days in between the reengagement meeting and the February 24, 2014 because she was sick with the flu. (Exhibit 5). Therefore, Claimant has presented sufficient evidence to establish that she had good cause for her noncompliance.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it


determined that Claimant did not have good cause for her failure to participate in employment related activities, closed Claimant's FIP case and imposed a three month sanction.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FAP is DISMISSED and the Department's FIP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, 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. Reinstate Claimant's FIP case effective April 1, 2014;
3. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from April 1, 2014, ongoing; and
4. Notify Claimant of its decision in writing.



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

Date Signed: May 27, 2014

Date Mailed: May 27, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

ZB/tlf

cc:

