

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

IN THE MATTER OF:



Reg. No.: 14-003441
Issue No.: 1008; 3001
Case No.: [REDACTED]
Hearing Date: JUNE 26, 2014
County: WAYNE-DISTRICT 17

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 June 26, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and remove her from her Food Assistance Program (FAP) case for noncooperation with employment-related activities??

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. Claimant did not attend community service on April 21, 2014 and failed a drug test for employment with [REDACTED].
3. On May 7, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the FIP-related work participation program and scheduling a triage on May 15, 2014, and (ii) a Notice of Case Action notifying her that effective June 1, 2014, her FIP case would close for a three-month minimum and she would be disqualified from her FAP group, based on her noncompliance with employment-related activities without good cause.

4. Claimant attended the triage.
5. The Department concluded that Claimant did not have good cause for her noncompliance and closed her FIP case and removed her from her FAP group.
6. On May 19, 2014, Claimant filed a request for hearing 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).

Claimant requested a hearing concerning her FIP and Child Development and Care (CDC) cases. At the hearing, Claimant testified that her CDC issue had been resolved to her satisfaction and she did not wish to pursue a hearing with respect to that matter. Accordingly, Claimant's hearing request with respect to the CDC matter is dismissed.

Although Claimant did not address her FAP benefits in her request for hearing, the evidence at the hearing showed that the Department disqualified Claimant as an eligible member of her FAP group due to her FIP-related noncompliance. Because the reduction in FAP benefits is directly tied to the FIP issue and it was discussed at the hearing, it is considered in this Hearing Decision.

FIP Case Closure

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 continued FIP eligibility, work eligible individuals 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 (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to appear and participate with the work participation program or other employment service provider, to participate in any required activities, or to complete a job application. BEM 233A, p. 2. The Department alleged that Claimant was in noncompliance with her FIP obligations because she had failed to begin her community service on April 21, 2014 as assigned and she failed her drug test for employment with [REDACTED] which she had been offered contingent on the drug test results.

Before terminating a client from the work participation program and closing her FIP case the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Claimant attended the triage and the post-triage notice shows that no good cause was found, specifically that Claimant stated that she was unwilling to work for free and she failed to identify any barriers that prevented her participation in the core activities. Claimant signed the triage notice indicating that the above information was correct.

At the hearing, Claimant acknowledged that she did not attend community service when required and that she had failed the [REDACTED] drug test. She contended that, concerning her community service attendance, she had child care issues because her provider told her that it was not receiving CDC payments from the Department and she could no longer bring her child to the center. There was no evidence that Claimant presented this explanation at the triage. At the hearing, the Department testified that Claimant was receiving ongoing CDC benefits from February 23, 2014 until May 4, 2014 when her FIP case closed in connection with the noncompliance. Claimant presented a June 27, 2014 letter from her provider in which the provider stated that she provided ongoing daycare for Claimant's child for March 9, 2014 to the date of the letter and was not paid for 4/07 and 4/08. The provider does not indicate that it refused to provide child care services for Claimant's child due to the nonpayment of benefits; to the contrary, the provider indicates that the child was in care from March 9, 2014 ongoing. Therefore, the letter does not establish good cause for Claimant's failure to attend the April 21, 2014 community service appointment.

Based on the evidence presented, the Department properly determined that Claimant did not have good cause for her noncompliance. Therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case. Because this was Claimant's first occurrence of FIP employment-related noncompliance, the Department acted in accordance with Department policy when it closed Claimant's FIP case for at least three months. BEM 233A, p. 8.

FAP Disqualification

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.

If an individual is active in FIP and FAP at the time of FIP noncompliance and does not have good cause for the noncompliance, the individual is disqualified from her FAP group unless eligible for a FAP deferral for reason of care of a child under age 6. BEM 233B (July 2013), p. 2. The evidence in this case was that Claimant's child was a year old. Therefore, the Department did not act in accordance with Department policy to the extent it removed Claimant from her FAP group as a disqualified member based on the FIP employment-related noncompliance and reduced the group's FAP benefits.

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 acted in accordance with Department policy when it closed Claimant's FIP case but did not act in accordance with Department policy when it disqualified Claimant from her FAP group and reduced her benefits.


DECISION AND ORDER

Based on Claimant's withdrawal on the record of her hearing request concerning her CDC case, the CDC matter is DISMISSED.

The Department's FAP and FIP decisions are AFFIRMED IN PART with respect to closure of Claimant's FIP case and REVERSED IN PART with respect to disqualification of Claimant from her FAP group.

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 any FAP employment-related sanction applied to Claimant's case on or about June 1, 2014;
2. Recalculate Claimant's FAP benefits for June 1, 2014 ongoing to include Claimant as a qualified member of the group;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 1, 2014 ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: **7/1/2014**

Date Mailed: **7/2/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

