

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005857
Issue No.: 1008;3001
Case No.: [REDACTED]
Hearing Date: July 30, 2014
County: MACOMB-DISTRICT 20

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 July 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his wife, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator, [REDACTED], JET Case Manager and [REDACTED], from [REDACTED] who also served as translator.

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 2, 2014, the Department sent Claimant a Notice of Noncompliance instructing him to attend a triage meeting on April 10, 2014, to discuss whether good cause existed for his noncompliance. (Exhibit 1)
3. On April 2, 2014, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits and impose a three

4. month FIP sanction effective May 1, 2014, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3)
5. The above referenced Notice also informed Claimant that effective April 1, 2014; only his two children would be included in the FAP group. Claimant and his wife were removed as FAP group members. (Exhibit 3)
6. On June 25, 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).

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 can include 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, the Department testified that as a condition of receiving FIP benefits, Claimant and his wife were required to do community service. The Department stated that because Claimant failed to fulfill his community service hour requirements, it instructed Claimant by phone to attend an in person reengagement meeting on March 27, 2014, to discuss his noncompliance. The Department testified that because Claimant did not attend the reengagement meeting on March 27, 2014, it sent Claimant a Notice of Noncompliance instructing him to attend a triage meeting on April 10, 2014, to discuss whether he had good cause for his noncompliance. (Exhibit 1). A triage was conducted on April 10, 2014, which Claimant attended. The Department concluded that Claimant did not have good cause for his failure to attend the reengagement meeting and community service and initiated the closure of his FIP case, effective May 1, 2014, imposing a three month sanction for the first occurrence of noncompliance. (Exhibit 3).

At the hearing, Claimant stated that during the triage meeting, he informed the Department that he could not perform community service because he had gained employment and was now working. Claimant further testified that he did not receive a notice informing him of the reengagement meeting which is why he did not attend on March 27, 2014. The Department failed to present any documentation to support its testimony that Claimant was notified that he had to attend a reengagement meeting on March 27, 2014. In addition, Claimant testified and the Department confirmed that at the triage, Claimant provided copies of his pay stubs and that the Department was informed of Claimant's new employment.

Claimant provided additional testimony concerning his wife's attendance at community service, specifically that she only missed one day because the family did not have

transportation. It remained unclear from the evidence presented and the Department was unable to explain whether both Claimant and his wife were being sanctioned/disqualified for noncompliance or just Claimant, as the case notes reference both Claimant and his wife, whereas, the Notice of Noncompliance refers only to Claimant's missed appointment.

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 his failure to participate in employment related activities, closed Claimant's FIP case and imposed a three month sanction.

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.

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 (July 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, the Department testified that Claimant's FAP benefits were reduced because of the noncompliance with FIP work requirements. Initially, the Department testified that only Claimant's wife was disqualified as a FAP group member, however, a further review of the Notice of Case Action establishes that both Claimant and his wife were removed from the FAP group effective April 1, 2014. (Exhibit 3). The Department remained unable to explain why both Claimant and his wife were disqualified when the triage conducted was only with respect to Claimant.

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 because as discussed above, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for failure to participate in employment and/or self-sufficiency-related activities without good cause and imposed a three month sanction, the Department also did not act in accordance with Department policy when it disqualified Claimant and his wife from the FAP group and decreased his FAP benefits.

DECISION AND ORDER

Accordingly, the Department's FIP and FAP decisions are 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 sanctions that were imposed on Claimant's FIP and FAP cases;
2. Reinstate Claimant's FIP case effective May 1, 2014;
3. Issue supplements to Claimant for any FIP benefits that he was entitled to receive but did not from May 1, 2014, ongoing;
4. Recalculate Claimant's FAP budget to include Claimant and his wife as a qualified FAP group member for April 1, 2014, ongoing;
5. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from April 1, 2014, ongoing; and
6. Notify Claimant of its decision in writing.



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

Date Signed: **8/4/2014**

Date Mailed: **8/5/2014**

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:

