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

### IN THE MATTER OF:



Reg. No.: 14-013911 Issue Nos.: 1008, 3007 Case No.: Hearing Date: County:

November 13, 2014 Wayne (41-Fort Wayne)

**ADMINISTRATIVE LAW JUDGE:** Michael Bennane

## **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 November 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant

Participants on behalf of the Department of Human Services (Department) included

## ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits case?

## **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

- On September 9, 2014, the Department sent Claimant a notice of noncompliance 1. with work-related activities and an appointment date of September 15, 2014, to discuss Claimant's noncompliance.
- 2. On September 17, 2014, the Department sent Claimant a notice of case action continuing Claimant's FIP benefits.
- 3. On September 24, 2014, the Department sent Claimant a second notice of noncompliance with work-related activities and a second appointment date for October 2, 2014.

- 4. On September 24, 2014, the Department sent Claimant a notice of case action informing her that her FIP benefits were scheduled to close effective November 1, 2014.
- 5. On October 7, 2014, Claimant requested a hearing to protest the closure of her FIP benefits case and requested a hearing concerning her Food Assistance (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, 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.

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.

# <u>FAP</u>

Claimant requested a hearing on her FAP benefits but there is no negative action documented or addressed in the Department's hearing packet. Therefore, the request for a hearing on Claimant's FAP benefits is DISMISSED.

# <u>FIP</u>

The Department testified at the hearing that Claimant had several barriers to performing as requested in work-related activities. However, when questioned, the Department was not able to provide examples of barriers that would have qualified is good cause for Claimant's failure to comply with work-related activities.

Claimant testified that, during the time in question, she was five months pregnant. testified as to having knowledge of Claimant's physician documenting Claimant's need to stay off her feet. BEM 233A (July 2014).

The testimony of Claimant is sufficient to show good cause in this instance. The question of barriers was raised by the PATH representative without prompting and the testimony of Claimant and her representative is sufficient to show good cause.

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

- X did not act in accordance with Department policy when it closed Claimant's FIP benefits case effective November 1, 2014.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it

## **DECISION AND ORDER**

Accordingly, the Department's decision is

AFFIRMED.

imes REVERSED.

AFFIRMED IN PART with respect to and REVERSED IN PART with respect to

- $\boxtimes$  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. Reinstate Claimant's FIP benefits retroactive to November 1, 2014, and supplement for any missed benefits.

Michael Bennane

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

Date Signed: 11/24/2014

Date Mailed: 11/24/2014

MJB / pf

**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 48909-8139

CC:	