

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014977
Issue No.: 1008;3001
Case No.: [REDACTED]
Hearing Date: December 23, 2014
County: WASHTENAW (DISTRICT 20)

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person hearing was held on Tuesday, December 23, 2014, from Ypsilanti, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF and [REDACTED], PATH.

ISSUE

Did the Department properly close the Claimant's FIP case due to the Claimant's voluntary withdrawal from PATH and sanctioned her FAP case resulting in a decrease in FAP benefits?

FINDINGS OF FACT

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

1. On August 25, 2014, ALJ Lain reversed the Department's 3rd sanction of the Claimant for nonparticipation in the PATH program. She ordered the Department to reinstate the Claimant's FIP benefits from the date of the closure and to pay the Claimant any benefits that she was entitled to during the contested time period of June 2014, July 2014, August 2014, and September 2014.
2. The Department had 30 days from the receipt of the hearing decision dated August 25, 2014 to request a Reconsideration or Rehearing Decision. The Department did not and the ALJ's decision stands.
3. On September 15, 2014, the Claimant withdrew voluntarily from the FIP program. She was not under sanction or non-compliance with FIP because the ALJ reversed the Department's 3rd FIP Sanction on August 25, 2014. Department Exhibit 3.
4. On September 17, 2014, the Department Caseworker sent the Claimant a notice that her FIP case was closing effective October 1, 2014 because the Claimant

requested in writing that her FIP assistance be stopped and her FAP benefits would be decreased to \$ [REDACTED] per month effective October 1, 2014 due to a 6 month FIP sanction. Department Exhibit 4-7.

5. On October 21, 2014, the Department received a hearing request from the Claimant contesting the Department's negative action.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, the Claimant was an ongoing FIP and FAP recipient. The Department had referred the Claimant to the PATH program as a condition of receiving FIP benefits. The Claimant was found to be in non-compliant with PATH resulting in a 3rd sanction. However, the Claimant requested a hearing where the Department was reversed and ordered to reinstate the Claimant's FIP benefits from the date of the closure and to pay the Claimant any benefits that she was entitled to during the contested time period and delete the Claimant's 3rd sanction for nonparticipation in the PATH program. The Claimant was eligible for benefits for June 2014, July 2014, August 2014, and September 2014.

On September 15, 2014, the Claimant withdrew voluntarily from the FIP program. She was not under sanction or non-compliance with FIP because the ALJ reversed the Department 3rd Sanction on August 25, 2014. Department Exhibit 3. On September 17, 2014, the Department Caseworker sent the Claimant a notice that her FIP case was closing effective October 1, 2014 because the Claimant requested in writing that her FIP assistance be stopped and her FAP benefits would be decreased to \$309 per month effective October 1, 2014 due to a 6 month FIP sanction. Department Exhibit 4-7.

This ALJ finds that the Claimant was not in non-compliance with FIP because she closed her case voluntarily before she was even sent another notice to participate in PATH. There was no current DHS 2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance issued before the written request for closure. As a result, there was no FIP noncompliance.

BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED REQUIREMENTS: FIP page 14

Overlapping Negative Actions and Client Requests

When FIP is expected to close for a reason unrelated to noncompliance (including verbal or written client request), use the following guidelines:

If a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, is issued to a noncompliant person before his/her verbal or written request for case closure or for any other reason, proceed with the

noncompliance determination. If the client does not have good cause for the noncompliance, follow procedures outlined in this item under Processing the FIP Closure.

□ If a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, has not been issued before the verbal or written request for closure, or closure is initiated for any other reason, do not proceed with the noncompliance determination.

However, as a recipient of FAP, the Claimant is required to participate in employment requirements to receive FAP benefits.

BEM 230B 1 of 6 EMPLOYMENT-RELATED ACTIVITIES: FAP, page 1-3.

DEPARTMENT PHILOSOPHY

Department of Human Services (DHS) has a unique opportunity to assist families in becoming strong, viable, participative members of the community. By involving the adult members of the household in employment-related activities, we help restore self-confidence and a sense of self-worth. These are cornerstones to building strong, self-reliant families.

The goal of the Food Assistance Program (FAP) is to ensure sound nutrition among children and adults. In addition, the goal of our employment-related policies for FAP households is to assist applicants and recipients toward self-sufficiency by providing them with opportunities to pursue employment and/or education and training.

DEPARTMENT POLICY

Use this item to determine work-related activities and deferrals for FAP clients.

Also use this item when FIP or RCA closes for any reason other than a penalty or disqualification.

WORK REQUIREMENTS

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. However, unlike cash benefits, which are tied to participation in Partnership. Accountability Training. Hope. (PATH), there are no hourly PATH requirements for the Food Assistance Program.

In order to receive FAP benefits, non-deferred adults must comply with the following work requirements:

Non-deferred adults who are not working or are working less than 30 hours per week must:

- Accept a bona fide offer of employment.

Disqualify FAP clients for noncompliance if the applicant or recipient is neither deferred (see deferrals in this item) nor noncompliant with one of the FAP work requirements listed above.

In order to provide all FAP adults with the opportunity to pursue employment and/or education and training that will lead to self-sufficiency, you may encourage FAP applicants and recipients to pursue employment services such as job search, employment counseling, education and training, etc.

Workforce Investment Act (WIA) services may be available to all adults in FAP households. Other programs, such as the non-cash recipient program may be available to employed, underemployed, or recently employed adults residing in a household with a child under 18. Every local Michigan Works! Agency throughout Michigan operates both of these programs and may provide additional employment and training services. However, local variations, restrictions and/or policies may apply. Check with your local Michigan Works! Agency to determine what employment and education/training services are available in your area.

Do not disqualify FAP program applicants or recipients for failing to comply with WIA services or any other employment and training component you suggest.

Determine each group member's participation requirement at:

- Application.
- Redetermination.
- Change in circumstance that might affect the person's participation requirement; see BAM 105 for changes in circumstances that are required to be reported for the FAP.

INFORMING CLIENTS

Explain all of the following to FAP clients:

- FAP work requirements.
- Rights and responsibilities of non-deferred adults in FAP households.
- Consequences of their failure to comply.
- Right of deferred persons to participate.
- Reporting requirements. What constitutes good cause for noncompliance; see BEM 233B.

This ALJ finds that the Claimant was not deferred from the FAP employment related activities because she voluntarily closed her FIP case. However, there is no documentation presented by the Department or in the hearing packet that the Department explained to the

Claimant the FAP work requirements as is required by policy. It seems like the Department was sanctioning the Claimant's FAP case in error of her previous FIP sanction that was reversed by the ALJ.

BEM 233B FAILURE TO MEET EMPLOYMENT REQUIREMENTS: FAP, page 1-5.

DEPARTMENT PHILOSOPHY

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for a client who refuses to participate in FIP/RCA employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

DEPARTMENT POLICY

The policies in this item apply to all FAP applicants and recipients age 16 and over.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP.

Overlapping Negative Actions

If the client requests closure of FIP benefits only, but not FAP, any time during the penalty process and after the noncompliance occurred, continue to process the FAP disqualification. A minimum one or six month penalty applies. **If the FIP closure is not employment and/or self-sufficiency-related, Bridges will not budget the *Last FIP* grant amount.**

FAP ONLY NONCOMPLIANCE

Not Working

Non-deferred adults who are **not** working or are working less than 30 hours per week must:

Accept a bona-fide offer of employment.

Note: A bona fide offer of employment means a definite offer paying wages of at least the applicable state minimum wage.

Note: Determine good cause before implementing a disqualification.

This ALJ finds that there was no evidence presented at the hearing or in the hearing packet that the Department made a good cause determination before implementing a 6 month FAP disqualification for the Claimant not participation in FIP or FAP related employment activities. The Claimant did not refuse a bona-fide offer of employment as is required by policy. She is not and has not been employed, refused employment, or lowered her hours. There was no written verification in the hearing packet or presented at the hearing that the Claimant was provided with any information of the FAP work requirements. In addition, her FAP case cannot be sanctioned for nonparticipation with WEI or failure to participate in employment or self-sufficiency related requirements for FAP as stated in policy.

The Claimant has only two (2) sanctions for FIP because the 3rd Sanction was reversed by the previous ALJ's decision. There is no current FIP noncompliance. She has voluntarily closed her FIP case. As a result, this ALJ finds that the Department did not follow policy in decreasing the Claimant's FAP case for 6 months due to non-compliance with FIP for a 2nd sanction.

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 .
- did not act in accordance with Department policy when it decreasing the Claimant's FAP case for 6 months due to non-compliance with FIP for a 2nd sanction.
- 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.**
- REVERSED.**
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .

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. Initiate a redetermination of the Claimant's eligibility for FAP by restoring the Claimant's FAP benefits because she was not under a 2nd PATH sanction retroactive to October 1, 2014 and is not under a FAP failure to meet employment requirements sanction.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.

3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/30/2014**

Date Mailed: **12/30/2014**

CGF/hj

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:

