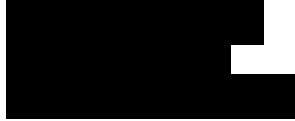


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-003751
Issue No.: 1008;3001
Case No.: [REDACTED]
Hearing Date: July 21, 2014
County: WAYNE-DISTRICT 19

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 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], PATH Case Manager; [REDACTED], Family Independence Manager; [REDACTED], Triage Coordinator; and [REDACTED], PATH Coordinator.

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 14, 2014, an administrative hearing was held with respect to Claimant's FIP and FAP benefits.
3. The Hearing Decision from the hearing held on April 14, 2014, found that the Department did not act in accordance with Department policy with respect to Claimant's FIP and FAP benefits; and the Department was ordered to reinstate Claimant's FIP case, as well as initiate certain other actions concerning Claimant's FIP and FAP benefits.

4. The Department reinstated Claimant's FIP case and on April 29, 2014, sent Claimant a PATH Appointment Notice instructing him to attend an appointment on May 6, 2014. (Exhibit 1)
5. On May 19, 2014, the Department sent Claimant a Notice of Noncompliance instructing him to attend a triage meeting on May 27, 2014, to discuss whether good cause existed for his noncompliance. (Exhibit 2)
6. On May 19, 2014, the Department sent Claimant a Notice of Case Action informing him that the Department intended to terminate his FIP benefits, reduce his FAP benefits and impose a six month FIP sanction effective June 1, 2014, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause for a second time. (Exhibit 7)
7. On May 27, 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 in connection with the Hearing Decision from the hearing held on April 14, 2014, it sent Claimant a PATH Appointment Notice instructing him to attend the PATH program on May 6, 2014. The Department stated that because Claimant did not attend his scheduled PATH appointment on May 6, 2014, it sent Claimant a Notice of Noncompliance informing him that he was required to attend a triage meeting on May 27, 2014, to discuss whether or not he had good cause for his failure to attend his PATH appointment. A triage was conducted on May 27, 2014, at which Claimant appeared. At the triage, Claimant informed the Department that he did not attend the PATH appointment on May 6, 2014, because for several months he has had many issues with receiving mail and he never received the PATH Appointment Notice. The Department concluded that Claimant did not have good cause for his failure to attend the PATH appointment and initiated the closure of his FIP case, effective June 1, 2014, imposing a six month sanction for the second occurrence of noncompliance. (Exhibit 3 and 7).

The Department asserted that Claimant did not have any issues with his mail because he allegedly received a letter from a potential employer that was dated May 1, 2014 and had his home address in the heading. The Department presented the letter for review at the hearing. (Exhibit 6). Although the letter is dated May 1, 2014, there is no supporting evidence to indicate that Claimant received this letter via mail at his home. Further,

Claimant stated that he volunteers at the location where he was offered employment and that he was given the letter in person on a day he volunteered.

At the hearing, Claimant stated that he did not attend his PATH appointment because he did not receive the PATH Appointment Notice. Claimant credibly testified that he has had ongoing issues with receiving mail and that the Department and the post office were aware of the problems. Claimant stated that he was instructed by the Post Master to purchase a PO Box in order to resolve the mail issues, however, Claimant stated that the PO Box was too expensive and he could not make the required payments on it. Claimant further testified that as of the hearing date, he had resolved the issues with his mail and that he was currently receiving mail at his home.

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 six month sanction, as it was not established that Claimant received the PATH Appointment Notice.

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 sent Claimant a Notice of Case Action on May 19, 2014, informing him that his FAP benefits would be decreased and he would be disqualified as a FAP group member effective June 1, 2014, as a result of his failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 7).

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 six month sanction, the Department also

did not act in accordance with Department policy when it disqualified Claimant 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 June 1, 2014;
3. Recalculate Claimant's FAP budget to include Claimant as a qualified FAP group member for June 1, 2014, ongoing;
4. Issue supplements to Claimant for any FIP and FAP benefits that he was entitled to receive but did not from June 1, 2014, ongoing; and
5. Notify Claimant of its decision in writing.



Zainab Baydoun

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

Date Signed: **7/25/2014**

Date Mailed: **7/29/2014**

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:

