

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-006435
Issue No.: 1008; 3007
Case No.: ██████████
Hearing Date: August 4, ██████
County: WAYNE-DISTRICT (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's spouse, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████ ██████, Family Case Manager; and ██████ ██████, Family Independence Specialist Case Manager.

ISSUES

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's spouse's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's spouse's 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 and her spouse were ongoing recipients of FAP and FIP benefits.
2. On April 2, 2014, the Medical Review Team (MRT) denied Claimant's spouse's deferral request and found him not disabled – work ready with limitations. See Exhibit 2, pp. 1-3.

3. On April 7, 2014, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied her spouse's deferral and that he would have to participate in the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit 3, p. 1.
4. On April 7, 2014, the Department sent Claimant's spouse a PATH Appointment Notice for him to attend his scheduled appointment on April 17, 2014. Exhibit 3, p. 2.
5. From on or around April 7, 2014 to June 16, 2014, Claimant's spouse participated in the PATH program.
6. On or around May 2014, Claimant's spouse indicated to the PATH program and Department that he is unable to participate due to his ongoing medical conditions and requested a short-term and/or long term deferral. See Exhibits 1 and A pp. 1-2.
7. On or around May 29, 2014, the Department denied Claimant's spouse's deferral request due to no new medical evidence submitted.
8. On or around June 9, 2014, the Department sent Claimant's spouse a re-engagement appointment notice. See Exhibit 1, p. 1.
9. On or around June 16, 2014, Claimant's spouse reported to the re-engagement appointment, but refused to sign the re-engagement agreement and/or refused to continue participating in the PATH program due to his ongoing medical conditions.
10. On June 16, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 11-13.
11. On June 16, 2014, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective July 1, 2014, to the amount of \$900 because of the spouse's failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 11-13.
12. On June 16, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant's spouse for a triage appointment on June 26, 2014. Exhibit 3, pp. 3-4.
13. On June 26, 2014, Claimant attended the triage appointment and the Department found no good cause for the spouse's failure to participate in the PATH program; and therefore, the FIP and FAP non-compliance was upheld. See Exhibit 1, pp. 1-2.
14. On June 26, 2014, Claimant filed a hearing request, protesting the FIP case closure and FAP reduction. See Exhibit 1, pp. 9-10.

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.

FIP benefits

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (July 2013), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider, participate in employment and/or self-sufficiency-related activities etc...; stating orally or in writing a definite intent not to comply with program requirements; etc...See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

In this case, Claimant and her spouse were ongoing recipients of FIP benefits. On April 2, 2014, the MRT denied Claimant's spouse's deferral request and found him not disabled – work ready with limitations. See Exhibit 2, pp. 1-3. The Department included the MRT denial and attached medical evidence it reviewed. See Exhibit 2, pp. 1-61. On April 7, 2014, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied her spouse's deferral and that he would have to participate in the PATH program. Exhibit 3, p. 1.

On April 7, 2014, the Department sent Claimant's spouse a PATH Appointment Notice for him to attend his scheduled appointment on April 15, 2014. Exhibit 3, p. 2. From on or around April 7, 2014 to June 16, 2014, Claimant's spouse participated in the PATH program.

On or around May 2014, Claimant's spouse indicated to the PATH program and Department that he is unable to participate due to his ongoing medical conditions and requested a short-term and/or long term deferral. See Exhibits 1 and A, pp. 1-2. In May 2014, the Department testified that Claimant's spouse presented a doctor's statement (dated May 19, 2014) requesting a 90-day deferral from the PATH program. See Exhibit 1, p. 1. A review of the letter indicated the following: (i) Claimant's spouse is diagnosed with major depression; (ii) he has three prescribed medications; (iii) requires at least four times a month therapy sessions; (iv) spouse's sister assist him and helps with his daily living/hygiene and his children; and (v) his condition appears to be chronic and would be reevaluated after 90 days. See Exhibit A, p. 2.

On or around May 29, 2014, the Department testified that it reviewed the deferral request and above doctor's statement and denied Claimant's spouse's deferral request. See Exhibit 1, p. 1. The Department testified no new medical evidence was submitted and that the spouse's participation can be scheduled around his monthly therapy appointments. See Exhibit 1, p. 1.

At the hearing, Claimant's spouse testified that he has ongoing medical conditions based on a motor vehicle accident on August 13, 2013, which resulted in his inability to participate in the PATH program. Claimant's spouse testified his medical conditions include back and neck injury, depression, and other conditions. Claimant's spouse acknowledged he provided the doctor statement dated May 19, 2014; however, he testified that he also provided an excuse note from his doctor dated April 11, 2014. Claimant's spouse provided the excuse note as evidence. See Exhibit A, p. 1. The Department evidence did not reference any excuse note dated April 11, 2014. Nonetheless, Claimant's spouse testified that his doctor would complete similar excuse notes monthly. A review of the excuse note indicates that the patient (spouse) can go back to work/school on May 30, 2014. See Exhibit A, p. 1. Moreover, the doctor indicated a diagnosis of status-post (S/P) motor vehicle accident, back, neck, and knee pain – S/P injury. See Exhibit A, p. 1. It should be noted that the Department's case

comments acknowledged another similar letter from the doctor stating the spouse is unable to participate from June 18, 2014 to August 18, 2014. See Exhibit 1, p. 7.

Subsequent the deferral denial, on or around June 9, 2014, the Department sent Claimant's spouse a re-engagement appointment notice. See Exhibit 1, p. 1. On or around June 16, 2014, Claimant's spouse reported to the re-engagement appointment and the Department testified that he refused to sign the re-engagement agreement. Based upon his refusal to sign the re-engagement agreement, the Department found Claimant in non-compliance. Claimant's spouse testified that he did not refuse to sign the agreement. Claimant's spouse testified that the PATH worker stated he did not need to sign it and instead, could request a hearing. Thus, Claimant testified he requested a hearing to await a decision on his PATH participation. Moreover, Claimant testified that he is unable to participate in the PATH program based on his doctor's recommendation (ongoing medical conditions).

On June 16, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 11-13. On June 16, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling the spouse for a triage appointment on June 26, 2014. Exhibit 3, pp. 3-4.

On June 26, 2014, Claimant attended the triage appointment and the Department found no good cause for the spouse's failure to participate in the PATH program; and therefore, the FIP-compliance was upheld. See Exhibit 1, pp. 1-2. The Department testified that no new medical documentation was submitted during triage and no barriers were mentioned that have not been addressed. See Exhibit 1, p. 1.

At the hearing, it appeared that Claimant was only present for the triage and not the spouse. Nevertheless, the Department's hearing summary indicated that Claimant and/or the spouse stated that he is under the doctor's care and unable to work. See Exhibit 1, p. 1. Additionally, Claimant's spouse testified that it appeared at the Pre-Hearing Conference he presented new medical documentation, which included back injections and possible surgery.

Regarding short-term incapacity, persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A, p. 11.

Regarding long-term incapacity, at intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A, p. 12. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 12. Step three involves the referral to MRT. See BEM 230A, p. 13. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 13.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, gather new verification and send for an updated MRT decision. BEM 230A, p. 16. When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, send the DHS-518, Assessment for FIP Participation, to the doctor and request supporting medical evidence. BEM 230A, p. 16. If new medical evidence is not provided, do not send the case back to the Medical Review Team. BEM 230A, p. 16. The previous MRT decision stands. BEM 230A, p. 16.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective July 1, 2014, ongoing, in accordance with Department policy.

First, this hearing decision has no authority and/or jurisdiction to reverse MRT decision for Claimant's spouse as it relates to a denial of a PATH deferral. BEM 230A states that when a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A, p. 20. Claimant's spouse's deferral not being granted in April 2014 is not a loss of benefits or services. Claimant's FIP case closure is based on the spouse's failure to participate in employment related activities, which resulted in a notice of case action being issued for noncompliance.

Second, the evidence presented that Claimant's spouse failed to provide any new medical evidence to warrant a short-term deferral or an updated MRT decision for a possible a long-term deferral. See BEM 230A, pp. 11-16; Exhibit 2, pp. 1-60; and Exhibit A, pp. 1-2. As such, the Department acted in accordance with Department policy when it denied Claimant's short-term deferral request and properly did not obtain any updated MRT decision due to Claimant's failure to present any new medical evidence. See BEM 230A, pp. 11-16

Third, Claimant's spouse failed and/or refused to participate in the PATH program. Even though Claimant's spouse denied the Department allegation that he refused to sign the re-engagement agreement, the evidence still presented that the spouse refused to participate in the PATH program. Claimant's spouse alleged his inability to participate due his medical conditions/doctor's recommendation; however, the MRT

denied his request for deferral. Because MRT denied Claimant's spouse's deferral request, he must participate in the PATH program. See BEM 230A, pp. 14-16. Claimant's spouse's condition of eligibility is that he must engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 2. Because Claimant's spouse refused to participate with the PATH program, the Department acted with Department policy when it found him in noncompliance. See BEM 233A, pp. 2-3.

Fourth, the evidence presented that Claimant and/or the spouse did not present any new medical evidence at triage, thus, it was proper for the Department to find no good cause for the noncompliance. As such, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, p. 1.

FAP benefits

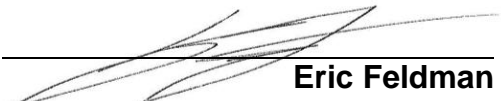
On June 16, 2014, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective July 1, 2014, to the amount of \$900 because of the spouse's failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 11-13.

Based on the above FIP analysis, the Department acted in accordance with Department policy when it found that Claimant's spouse failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 1. Because the Department properly closed Claimant's FIP case, it properly reduced Claimant's FAP benefits by excluding the spouse as a disqualified member of the FAP group. BEM 233B (July 2013), p. 6.

DECISION AND ORDER

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 (i) properly closed Claimant's FIP benefits effective July 1, 2014, ongoing; and (ii) properly reduced Claimant's FAP benefits effective July 1, 2014, ongoing.

Accordingly, the Department's FAP and FIP decision is AFFIRMED.


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

Date Signed: **8/12/2014**

Date Mailed: **8/12/2014**

