

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

IN THE MATTER OF:

██████████
██████████████████
██████████

Reg. No.: 14-007062
Issue No.: 1008;3001
Case No.: ██████████
Hearing Date: August 20, 2014
County: Wayne-District 15

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 August 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included █████ █████, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her 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 July 8, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on July 15, 2014, to discuss whether good cause existed for her noncompliance. (Exhibit 3)
3. On July 15, 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, Claimant was an ongoing recipient of FIP benefits. As a condition of receiving FIP benefits, Claimant was required to participate in the PATH program. The Department testified that because Claimant was late to her PATH appointment on July 7, 2014, and 20 minutes late to a meeting on July 8, 2014, she was placed in noncompliance with work related activities. The Department stated that on July 8, 2014, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on July 15, 2014, to discuss whether she had good cause for being late to her PATH appointment.

A triage was conducted on July 15, 2014, at which Claimant appeared. At the triage, Claimant informed the Department that she was late to her appointments because she relies on public transportation and because of the rain that day, the buses were running late. The Department concluded that Claimant did not have good cause for her tardiness, and initiated the closure of her FIP case, effective August 1, 2014, imposing a six month sanction for the second occurrence of noncompliance. (Exhibit 2). Although the Department testified that a Notice of Case Action was sent, one was not presented for review at the hearing. Therefore, it remained unclear when Claimant's case closure and second noncompliance sanction was to take effect, as well as the exact reason for the intended action as documented in Bridges. BAM 220.

At the hearing, Claimant stated that during the triage meeting, she informed the Department that she does not have a car and that she relies on the bus system to get to and from her PATH assignments. Claimant also testified that she called her Department case worker on July 8, 2014, to inform her that she was on the bus and running a bit late.

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 Claimant provided a good cause reason for her tardiness, 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, closed Claimant's FIP case and imposed a six month sanction for a second occurrence of noncompliance..

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 she was determined to have been noncompliant with FIP work requirements. The Department stated that it sent Claimant a Notice of Case Action informing her of the decrease in FAP benefits and her disqualification from the FAP group, however, the Notice of Case Action was not presented for review at the hearing.

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 her 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 the date of closure, August 1, 2014;
3. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from the date of closure, ongoing;
4. Recalculate Claimant's FAP budget to include Claimant as a qualified FAP group member for August 1, 2014, ongoing;

5. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from August 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: **8/25/2014**

Date Mailed: **8/25/2014**

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:

Device Type	Percentage of Respondents
Smartphone	85%
Tablet	72%
Smartwatch	48%
Smart TV	35%
Smart Home Assistant	28%
Smart Car	15%
Smart Thermostat	12%
Smart Lock	8%
Smart Doorbell	5%