

**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.: 14-009441
Issue No.: 1008; 3001
Case No.: ██████████
Hearing Date: October 13, 2014
County: WAYNE-DISTRICT 57
(CONNER)

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 three-way telephone hearing was held on October 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Case Manager; ██████████ Family Independent Manager; and ██████████, Case Manager.

ISSUES

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant'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 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. See Exhibit 2, pp. 14-32.

2. On June 5, 2014, the Partnership. Accountability. Training. Hope. (PATH) program sent Claimant a pay stub letter (to her father's address) requesting proof of her employment income. See Exhibit 1, p. 6.
3. Claimant failed to respond to the pay stub letter request.
4. On or around June 26, 2014, the PATH program sent Claimant a Noncompliance Warning Notice (to her father's address) for failure to submit her pay stubs and scheduled her for a reengagement appointment on July 2, 2014. See Exhibit 1, p. 6.
5. On July 2, 2014, Claimant failed to attend her reengagement appointment and the PATH program requested a triage. See Exhibit 1, p. 6.
6. On July 3, 2014, the Department mailed Claimant a Notice of Noncompliance (her previous address) scheduling Claimant for a triage appointment on July 15, 2014. Exhibit 1, p. 4.
7. On July 3, 2014, the Department sent Claimant a Notice of Case Action (her previous address) closing Claimant's FIP case, effective August 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2, pp. 1-7.
8. On July 3, 2014, the Notice of Case Action also notified the Claimant (her previous address) that her FAP benefits were reduced effective August 1, 2014, to the amount of \$189 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2, pp. 1-7.
9. On July 15, 2014, Claimant failed to attend her triage appointment; however, the Department still found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
10. On July 29, 2014, the Department sent Claimant a Notice of Case Action (her father's address) notifying her that her FAP benefits closed effective September 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1, pp. 10-13.
11. On August 14, 2014, Claimant filed a hearing request, protesting her FIP and FAP benefits. See Exhibit 1, pp. 2-3.
12. On August 18, 2014, the Department sent Claimant a Notice of Case Action (her current address) notifying her that her FAP benefits were approved effective September 1, 2014. See Exhibit 2, pp. 8-13.
13. On August 29, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing notifying her of a hearing on September 11, 2014.

14. On September 12, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order of Dismissal due to Claimant not arriving at the DHS office for her hearing.
15. On or around September 16, 2014, Claimant requested MAHS to vacate the dismissal order.
16. On September 26, 2014, the ALJ sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.
17. On October 2, 2014, MAHS sent Claimant a Notice of Hearing notifying her of the rescheduled hearing on October 13, 2014.

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.

Preliminary matter

As a preliminary matter, it was discovered during the hearing that the Department originally sent Claimant a Notice of Case Action dated July 3, 2014, which notified her that she was disqualified from her FAP benefits due to the non-compliance. See Exhibit 2, pp. 1-7. However, on July 29, 2014, the Department sent Claimant a Notice of Case Action (her father's address) notifying her that her FAP benefits closed effective September 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1, pp. 10-13. Then, on August 18, 2014, the Department sent Claimant a Notice of Case Action (her current address) notifying her that her FAP benefits were approved effective September 1, 2014. See Exhibit 2, pp. 8-13. It was unclear why the Department sent both subsequent notices.

A review of Claimant's Eligibility Summary discovered that her FAP benefits never closed. See Exhibit 2, p. 27. Instead, Claimant's Eligibility Summary indicated that her FAP benefits were reduced due to the non-compliance. See Exhibit 2, p. 27. It should be noted that Claimant gave birth to a child in July 2014 and therefore, her group size increased. Nevertheless, this ALJ will determine if the Department properly disqualified Claimant from her FAP benefits effective August 1, 2014, ongoing.

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.

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 (July 2013), p. 9. Good cause is determined during triage. 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. 3. 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. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. See Exhibit 2, pp. 14-32. It was not disputed that Claimant had a two-year-old child and a two-month-old child (born in July 2014). The PATH program indicated that Claimant was employed and was required to work 20-hours a week. See BEM 228 (July 2013), pp. 14-15. Moreover, the PATH program indicated that Claimant had to submit consecutive pay stubs every six months to show that she was meeting her required hours. See BEM 228, pp. 18 and 21.

Claimant testified that she notified the Department that she had issues in receiving her DHS correspondence at her previous address. As such, Claimant testified that she notified the Department to send her mail to her father's address in mid-June 2014. However, the Department indicated it sent the pay stub verification on June 5, 2014, to the father's address, which would indicate she notified the address change in early-June 2014.

Nevertheless, on June 5, 2014, the PATH program sent Claimant a pay stub letter (to her father's address) requesting proof of her employment income. See Exhibit 1, p. 6. Claimant failed to respond to the pay stub letter request. Claimant testified that she did not receive this letter request even though it was sent to the father's address.

On or around June 26, 2014, the PATH program sent Claimant a Noncompliance Warning Notice (to her father's address) for failure to submit her pay stubs and scheduled her for a reengagement appointment on July 2, 2014. See Exhibit 1, p. 6. On July 2, 2014, Claimant failed to attend her reengagement appointment and the PATH program requested a triage. See Exhibit 1, p. 6. Again, Claimant's testimony indicated that she did not receive the noncompliance letter even though it was sent to the father's address.

At the end of June 2014, Claimant testified that she moved from her previous address to her current address. Claimant testified that she contacted her DHS worker and notified him of her new address at the end of June 2014. Claimant testified that she notified the DHS worker of the new address approximately two weeks after she told the Department to send all correspondence to her father's address.

On July 3, 2014, the Department mailed Claimant a Notice of Noncompliance (her previous address) scheduling Claimant for a triage appointment on July 15, 2014. Exhibit 1, p. 4. Also, on July 3, 2014, the Department sent Claimant a Notice of Case Action (her previous address) closing Claimant's FIP case, effective August 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2, pp. 1-7.

On July 15, 2014, Claimant failed to attend her triage appointment; however, the Department still found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. Again, Claimant indicated she did not receive the Notice of Noncompliance due to the document being sent to her previous address. At the time the notices were sent, Claimant testified she had already resided in the new address. Because Claimant did not receive the notice, she argued that she was unable to attend the triage appointment.

On July 29, 2014, the Department sent Claimant a Notice of Case Action (her father's address) notifying her that her FAP benefits closed effective September 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1, pp. 10-13. Claimant testified that based on receiving this notice, it resulted in her becoming aware that her FIP benefits had also closed.

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. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 9.

The Department determines good cause based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. Good cause may be verified by information already on file with DHS or PATH. BEM 233A, p. 9. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp. 9-10.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective August 1, 2014.

Claimant rebutted the presumption of proper mailing. See *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant credibly testified that she notified the Department of her updated mailing/residential address, which was before the Notice of Noncompliance was generated. See BAM 105 (April 2014), pp. 9 and BAM 220 (January and July 2014), p. 6. As a result of the updated mailing/residential address, the evidence presented that Claimant never received the notice informing her of the triage appointment. As such, Claimant never had the opportunity to attend her triage appointment in order to jointly discuss the noncompliance and good cause. See BEM 233A, pp. 9-10. The Department will remove Claimant's second sanction and reinstate her FIP benefits. However, the Department will notify Claimant in writing of a new triage meeting to determine if she had a good cause reason for the noncompliance, in accordance with Department policy. See BEM 233A, pp. 9-10.

FAP benefits

On July 3, 2014, the Notice of Case Action also notified the Claimant (her previous address) that her FAP benefits were reduced effective August 1, 2014, to the amount of \$189 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2, pp. 1-7.

For FAP employment-related activities, the Department defers one person who personally provides care for a child under age six who is in the FAP group. BEM 230B (October 2013), p. 4. Also, if a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. BEM 233B (July 2013), p. 2. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. BEM 233B, p. 2. No other deferral reasons apply for participants active FIP and FAP. BEM 233B, p. 2.

Based on this information, the Department improperly reduced Claimant's FAP benefits by excluding her as a disqualified member of the FAP group. BEM 233B, pp. 1 - 9. Claimant was an active FIP and FAP participant at the time of the FIP noncompliance. Moreover, Claimant personally provides care for a child under the age of six who is in the FAP group. Thus, Claimant should have been deferred from the FAP employment-related activities and should not have been disqualified from the FAP benefits. See BEM 230B, p. 4 and BEM 233B, p. 2.


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 did not act in accordance with Department policy when it (i) improperly closed Claimant's FIP benefits effective August 1, 2014; and (ii) improperly disqualified Claimant from her FAP benefits effective August 1, 2014.

Accordingly, the Department's FAP and FIP decision is 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 Claimant's second FIP sanction from her case;
2. Remove Claimant's FAP sanction/disqualification;
3. Reinstate Claimant's FAP and FIP cases effective August 1, 2014;
4. Issue supplements to Claimant for her FAP benefits effective August 1, 2014;
5. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from August 1, 2014; and
6. Notify Claimant in writing of a new triage meeting to determine if she had a good cause reason for the noncompliance, in accordance with Department policy.


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

Date Signed: **10/17/2014**

Date Mailed: **10/17/2014**

EJF / cl

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:

[REDACTED]