

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

IN THE MATTER OF:

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

Reg. No.: 14-012192
Issue No.: 1008; 3001
Case No.: ██████████
Hearing Date: October 22, 2014
County: WAYNE-DISTRICT 76

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 October 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her friend, ██████████ sh. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist, and ██████████ ██████████, Family Independence Manager.

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 31, 2014, the Department sent Claimant a Noncompliance Warning Notice instructing her to attend a re-engagement meeting on August 6, 2014. (Exhibit 1)
3. On August 6, 2014, a re-engagement meeting was conducted during which Claimant signed a re-engagement agreement, agreeing to comply with the PATH requirements. (Exhibit 1, p.3)

4. On August 11, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on August 19, 2014, to discuss whether good cause existed for her noncompliance. (Exhibit 4)
5. On August 11, 2014, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits, reduce her FAP benefits and impose a three month FIP sanction based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 5)
6. On September 15, 2014, Claimant requested a hearing 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 employed at [REDACTED] and attending job search at the PATH program. The Department testified that because Claimant did not inform the Department that her employment at [REDACTED]s had ended, it sent her a Noncompliance Warning Notice instructing her to attend a re-engagement meeting on August 6, 2014. A re-engagement meeting was held on August 6, 2014, where Claimant signed a re-engagement agreement, agreeing to complete activities as assigned, turn in documentation as required, contact Ross IES (PATH program) if support services are needed and to comply with the requirements of PATH. (Exhibit 1, p. 3).

The Department testified that it was informed at the re-engagement meeting that Claimant had gained new employment with [REDACTED]; however, because Claimant did not provide verification of her new employment at [REDACTED], the Department could not accept this form of PATH participation for Claimant and verbally instructed her to attend job search at the PATH program on August 11, 2014. The Department further testified that because Claimant did not attend her PATH appointment on August 11, 2014, she was placed in noncompliance with work-related activities. The Department sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on August 19, 2014, to discuss whether she had good cause for her noncompliance. (Exhibits 3 and 4).

A triage was conducted on August 19, 2014, at which Claimant appeared. At the triage, the Department determined that because Claimant did not provide verification of her employment, Claimant did not have good cause for her noncompliance and initiated the closure of her FIP case effective September 1, 2014, imposing a three month sanction for the first occurrence of noncompliance. (Exhibit 5). The Department failed to present evidence that a verification checklist was issued or that Claimant was provided the appropriate time to submit the requested verification of her employment as required under BAM 130. BAM 130 (July 2014).

At the hearing, Claimant testified that she had gained employment at [REDACTED] in May 2014 and it was not stable employment, as she only worked when needed for an event. Claimant stated that she did not attend her job search appointment on August 11, 2014, because she had to work that day. Claimant testified that she contacted the PATH worker to inform him that she would not be attending because she had to work that day and asked the PATH worker if he would assist her in obtaining bus tickets so she could go to work. Claimant stated that she was informed by the PATH worker that she would not be given bus tickets and was no longer registered in the system as a PATH participant.

A review of the case notes provided by the Department established that on August 11, 2014, Claimant contacted her PATH worker and informed him that she would not be able to come to the appointment because she had to work (Exhibit 2, p. 1). Furthermore, at the hearing, Claimant provided a completed Verification of Employment form for her employment at [REDACTED] which the Department confirmed was submitted on August 19, 2014, (the day of the triage) in the late afternoon, after the triage was concluded. (Exhibit A).

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 her failure to participate in employment-related activities, closed Claimant's FIP case and imposed a three month sanction.

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, pp. 2-3. Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. For the first occurrence of noncompliance without good cause, the Department will disqualify the client for one month or until compliance, whichever is longer. For the second occurrence of noncompliance without good cause, the Department will disqualify the client for six months or until compliance, whichever is longer. BEM 233B, p. 6.

In this case, the Department testified that Claimant's FAP benefits were reduced and she was disqualified as a FAP group member for one month because she was determined to have been noncompliant with FIP work requirements. The Department stated that it sent Claimant a Notice of Case Action on August 11, 2014, informing her that effective September 1, 2014, her FAP benefits would be reduced to \$189 and that she would be disqualified as a member of her FAP group on the basis that she did not have good cause for her failure to cooperate with work-related activities. (Exhibit 5).

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 three 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 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 the sanctions that were imposed on Claimant's FIP and FAP cases;
2. Reinstate Claimant's FIP case effective the date of closure, September 1, 2014;
3. Issue FIP supplements to Claimant from September 1, 2014, ongoing, in accordance with Department policy;
4. Recalculate Claimant's FAP budget to include Claimant as a qualified FAP group member for September 1, 2014, ongoing;

5. Issue FAP supplements to Claimant from September 1, 2014, ongoing, in accordance with Department policy; and
6. Notify Claimant of its decision in writing.



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

Date Signed: **10/28/2014**

Date Mailed: **10/28/2014**

ZB / 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]