

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

IN THE MATTER OF:

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

Reg. No.: 14-014597
Issue No.: 1008;3001
Case No.: ██████████
Hearing Date: November 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 November 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, JET/PATH Case Manager and ██████████, Case Manager Development Center.

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 October 14, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on October 21, 2014, to discuss whether good cause existed for her noncompliance. (Exhibit 2)
3. On October 14, 2014, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2014, the Department intended to terminate her FIP benefits, reduce her FAP benefits and impose a six month FIP

sanction based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 4)

4. On October 21, 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 (October 2014), 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 (October 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 by attending meetings and conducting job search. The Department testified that on September 29, 2014, Claimant attended a meeting with her case worker at the Development Center and was given job leads for which she was instructed to apply online and follow up with the managers in each location. The Department stated that Claimant was instructed to return for a meeting with her PATH case worker on October 3, 2014, to submit job search logs. Claimant attended the meeting after applying for the jobs online; however, because Claimant had not met with each of the managers in person, she was given additional time and instructed to return on October 8, 2014, at 9:00 AM with the job search logs completed.

The Department stated that on October 8, 2014, Claimant called her case worker at the Development Center to let him know that she was running late and further stated that she appeared for the meeting around 9:30 AM. The Department testified that Claimant's job search logs were incomplete, so the Development Center case worker informed her that she could fill out the logs and that he would meet with her after she completed them. The Department, relying on the case notes, testified that because it was now 11:00 AM on October 8, 2014, the Development Center case worker determined that it was too late and he would not meet with Claimant that day. The Department determined that Claimant did not attend her appointment on October 8, 2014, and sent her a Notice of Noncompliance informing her that she was required to attend a triage meeting on October 21, 2014, to discuss whether she had good cause for the noncompliance. (Exhibits 1 and 2).

A triage meeting was held on October 21, 2014, at which Claimant appeared. The Department determined that Claimant did not have good cause for her missing an appointment with the Development Center case worker on October 8, 2014, and

initiated the closure of her FIP case, effective November 1, 2014, imposing a six month sanction for the second noncompliance without good cause. (Exhibits 3 and 4).

At the hearing, Claimant testified that she attended the meeting on October 8, 2014, and that she completed her job search logs after being given additional time that day. Claimant testified that her case worker went to meet with other people and that by the time he was finished with his other meetings, he told her that it was too late for him to meet with her. Claimant provided a copy of the job search logs that were completed for the meeting on October 8, 2014 and stated that she did not provide them at the triage because the Department was asking her about why she missed her appointment, to which she replied that she attended. (Exhibit B). Claimant and the Department both testified that Claimant was working with more than one job developer/case worker at the Development Center and that she was required to attend meetings and complete job search logs for each case worker. On October 21, 2014 (the day of the triage), Claimant also provided the Department with copies of the job search logs that she completed for the other case worker as well. (Exhibit A).

A review of the Notice of Noncompliance establishes that the Department references a missed appointment date of October 14, 2014, which was unexplained by the Department. (Exhibit 2). The Department's testimony and the supporting documentary evidence establish however, that the meeting at issue was October 8, 2014. After further review, Claimant presented sufficient evidence that she attended her scheduled appointment on October 8, 2014 and provided proof of her job search logs. (Exhibits A and B).

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 closed Claimant's FIP case and imposed a six month sanction based on a noncompliance without good cause.

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 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 October 14, 2014, informing her that effective November 1, 2014, her FAP benefits would be reduced to \$119 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 4).

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, November 1, 2014;
3. Issue FIP supplements to Claimant from November 1, 2014, ongoing, in accordance with Department policy;
4. Recalculate Claimant's FAP budget to include Claimant as a qualified FAP group member for November 1, 2014, ongoing;

5. Issue FAP supplements to Claimant from November 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: **11/26/2014**

Date Mailed: **11/26/2014**

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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 48909-8139

CC:

[REDACTED]
[REDACTED]
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