

**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.: 2014-10391
Issue No.: 1008; 3007
Case No.: ██████████
Hearing Date: December 4, 2013
County: Wayne (57)

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 December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist, ██████████, Program 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 1.
2. Claimant failed to attend three weeks of community service activities for week endings 9/21/13 to 10/5/13. See Exhibit 1.

3. On or around October 9, 2013, the Partnership. Accountability. Training. Hope. (PATH) program sent Claimant a Noncompliance Warning Notice with a reengagement appointment date of October 16, 2013. See Exhibit 1.
4. Claimant failed to attend her reengagement appointment. See Exhibit 1.
5. On October 23, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 29, 2013. Exhibit 1.
6. On October 23, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective December 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
7. On October 23, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective December 1, 2013, in the amount of \$183 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
8. On October 29, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
9. On October 29, 2013, Claimant filed a hearing request, disputing her FIP case closure and FAP reduction. See Exhibit 1.

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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 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.

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 and FAP benefits. Claimant failed to attend three weeks of community service activities for week endings 9/21/13 to 10/5/13. Specifically, the Department testified that Claimant was required to attend community service 20 hours a weeks for week endings 9/21/13 to 10/5/13. The Department testified that Claimant failed to attend any community service hours these weeks. Thus, the Department testified that on or around October 9, 2013, the PATH program sent Claimant a Noncompliance Warning Notice with a reengagement appointment date of October 16, 2013. See Case Notes, Exhibit 1. The Department testified that Claimant failed to attend her reengagement appointment. Therefore, on October 23, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 29, 2013. Exhibit 1. Also, on October 23, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective December 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. Additionally, on October 29, 2013, the Department testified that Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.

At the hearing, Claimant agreed that she did not attend the three weeks of community service requirements. Claimant testified that she has a one-year-old son and that her mother was watching her child. However, Claimant testified that her mother obtained employment in September 2013 and her mother could no longer care for her child. Claimant testified that this resulted in her watching her child and her inability to attend the community service appointments. Claimant testified that she both called her former DHS caseworker (who is not present for the hearing) and visited her local DHS office inquiring on what she should do in September 2013. However, Claimant testified that she was unable to get a hold of a DHS caseworker. Moreover, Claimant testified that she was told in the past by a DHS caseworker that she could not apply for child care

services. It should be noted that this same testimony was told to the Department at the triage appointment.

Claimant also testified that she never received the Noncompliance Warning Notice from the PATH program, which scheduled her for a reengagement appointment on October 16, 2013. Claimant testified that she has been at her same address. The Department testified that it did not receive any returned mail. Based on this information, Claimant failed to rebut the presumption of proper mailing. The Department credibly testified that it never received any returned mail and Claimant has been at the same address. See *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Nevertheless, Claimant attended her triage appointment to address the noncompliance and good cause reasons.

Additionally, the Department testified that Claimant did not apply for the Child Development and Care (CDC) program. The Department testified that Claimant is notified at the PATH orientation and at other times that she can apply for CDC benefits if attending the PATH program. A review of the case notes indicated that Claimant had no child care issues since May 30, 2013. See Exhibit 1. Moreover, a review of the eligibility summary indicated that Claimant has been receiving FIP benefits since August 1, 2012. See Exhibit 1.

In regards to no child care good cause reasons, BEM 233A states that the client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5.

- Appropriate. The care is appropriate to the child's age, disabilities and other conditions.
- Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.
- Suitable provider. The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements.
- Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.

BEM 233A, p. 5.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective December 1, 2013, ongoing, in accordance with Department policy. First, it is found that Claimant failed to participate in employment and/or self-sufficiency related activities when she did not attend three weeks of community service hours. Claimant is therefore in noncompliance with the PATH program. Second, Claimant failed to show any good cause reasons for her failure to

attend the three weeks of community service hours. Claimant indicated her good cause reason was a lack of child care due to her mother obtaining employment. However, Claimant did not credibly testify that a DHS caseworker told her she could not apply for CDC benefits. The Department credibly testified that it did not show any application for CDC benefits. Moreover, the Department credibly testified that Claimant and other FIP recipients are notified multiply times that they can apply for CDC benefits when attending PATH. Claimant is an ongoing recipient of FIP benefits and should have been aware of her ability to apply for CDC benefits, if needed. The Department also credibly testified that it did not learn of her child care issue until the triage appointment. Therefore, the Department did act in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, p. 1.

FAP benefits

On October 23, 2013, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective December 1, 2013, in the amount of \$183 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.

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 provided 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 (i) acted in accordance with Department policy when it properly closed Claimant's FIP benefits effective December 1, 2013, ongoing; and (ii) did not act properly when it reduced Claimant's FAP benefits effective December 1, 2013, ongoing.

Accordingly, the Department's FIP decision is AFFIRMED and the FAP 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. The Department shall remove Claimant's FAP sanction/disqualification;
2. The Department shall begin recalculating the FAP budget for December 1, 2013, ongoing, in accordance with Department policy;
3. The Department shall supplement for FAP benefits that Claimant was entitled to receive if otherwise eligible and qualified for December 1, 2013, ongoing, in accordance with department policy; and
4. The Department shall notify Claimant of the FAP determination in accordance with Department policy.



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

Date Signed: December 10, 2013

Date Mailed: December 10, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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.

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The Department, AHR or the claimant 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 the hearing decision is mailed.

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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]