

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22029
Issue Nos.: 2000, 1008, 3001
Case No.: [REDACTED]
Hearing Date: February 13, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following a request for hearing this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 13, 2014. Claimant appeared and testified. Participants on behalf of the Department of Human Services ("Department") included [REDACTED], Family Independence Specialist

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to a failure to participate in employment and/or self sufficiency-related activities without good cause?

Did the Department properly determine whether the Claimant was eligible to receive Food Assistance?

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 alleged that she did not receive FAP benefits after she applied for them.

2. The Department issued a Notice of Case Action on January 3, 2014 which closed the Claimant's FIP Cash Assistance benefits effective February 1, 2014 for failure to comply with the PATH Program participation requirements after December 8, 2013. A second sanction was imposed for no good cause and the FIP case was closed for 6 months. Exhibit 1
3. The January 3, 2014 Notice of Case Action did not affect the Claimant's FAP benefits.
4. The Claimant did not receive the Notice of Non Compliance issued by the Department on January 3, 2014 until after the triage date of January 10, 2014 had passed. Claimant Exhibit A
5. The Claimant did not receive the PATH re-engagement letter. The re-engagement letter was not presented at the hearing by the Department but was the basis for non-compliance. Exhibit 3, pp. 1.
6. A triage was conducted on January 10, 2014 which the Claimant did not attend and no good cause was found. No one who attended the triage was at the hearing.
7. The Department conducted an informal triage on January 17, 2014 when the Claimant came to the Department to attempt to determine why her case was closed.
8. On January 10, 2014 the Department received the Claimant's request for a hearing disputing the closure of her FIP case, the failure to receive FAP benefits and the reduction of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, et seq. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, et seq., and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (January 2013), p. 1.

The WEI can be considered non-compliant 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 1-2. 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. 3, 4.

Good cause includes 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, p. 4. 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.8-9. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (November 2012), p. 9. 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, p. 7. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp.7-8 Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 7.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 8. 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. 6.

In this case, Claimant credibly testified that she did not receive the re-engagement letter sent to her by the PATH program. The re-engagement letter was not presented at the hearing; thus, the Department did not establish that the letter was sent. The Claimant also credibly testified that she did not receive the Notice of Non Compliance until after the triage had been scheduled. The Claimant did not attend the triage for that reason. The Department attempted to hold a triage on January 17, 2013, when the Claimant was at the Department attempting to determine what had occurred with her case to cause its closure. Although the Department was attempting to fix the fact that Claimant

did not get the first Notice until after the triage date, the Claimant in fact did not have prior notice of the fact that the Department would allow her to present information at that time. The Claimant credibly testified that she brought her job search records with her that day but they were not considered. The Department recalled otherwise but presented no notes of what was discussed at the triage. Based upon the evidence presented, it is determined that the Claimant had no notice of the re-engagement letter sent by the PATH program or the Notice of Non Compliance until after the triage date, and the Department did not establish that it considered the job search records or the fact that Claimant had no notice of the re-engagement meeting. Based upon the record as a whole, it is determined that the Department did not meet its burden of proof to establish non-compliance with PATH participation and full consideration of good cause by the Department was also not established.

Accordingly, it is found and determined that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits and imposed a six month penalty.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, et seq., and Mich Admin Code, Rule 400.3001-3015. I

In this case the Claimant clearly requested a hearing regarding Food Assistance and in her hearing request alleged that she was not receiving Food Assistance for herself even though she had applied. The Department did not present any evidence as to whether Claimant did receive Food Assistance and whether she was considered as part of her FAP group. Thus the Department did not meet its burden of proof to present evidence regarding the Claimant's eligibility or non-eligibility of FAP benefit.

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 (January 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. It also was not established that the Claimant was removed from her FAP group due to non-compliance with the PATH program requirements.

Medical Assistance

At the hearing the Claimant withdrew her hearing request regarding Medical Assistance as she currently receives medical assistance and did not wish to proceed with the hearing.

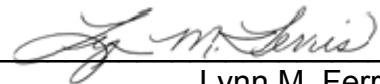
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits, imposed a six-month sanction and did not meet its burden of proof regarding the status of Claimant's FAP benefits. Accordingly, the Department's FIP and FAP decisions are REVERSED.

The Claimant's Request for Hearing for Medical Assistance was withdrawn and is hereby DISMISSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the second sanction that was imposed on Claimant's case due to non-compliance with the PATH Program participation requirements;
2. Initiate reinstatement of Claimant's FIP case effective February 1, 2014 consistent with this Hearing Decision;
3. Determine the Claimant's eligibility or non-eligibility of Food Assistance for September 2013 ongoing and advise the Claimant in writing as to the status of her FAP benefits. If the application was denied or the case closed, the Department shall so advise the Claimant and advise Claimant as to the reason for the action, if any, taken by the Department.
4. Begin issuing supplements to Claimant for any FIP benefits and FAP benefits, if any, that she was entitled to receive but did not from January 1, 2014 for FIP benefits.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2014

Date Mailed: February 21, 2014

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc:

