

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014 22044
Issue Nos.: 1008, 3008
Case No.: [REDACTED]
Hearing Date: February 13, 2014
County: Wayne (17)

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 reduce the Claimant's Food Assistance (FAP) benefits due to rent no longer being paid?

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. The Department closed the Claimant's FIP case after the Claimant did not attend the PATH Program Orientation.

2. The Department did not provide a notice of case action for the FIP case closure.
3. The Claimant was sent a PATH Appointment Notice on October 2, 2013 and a Notice of Non Compliance on October 21, 2013. The Claimant did not receive either notice as the Claimant was having problems with receiving her mail. The Claimant moved from the address where the notices were sent because the home was foreclosed on or about October 25, 2013.
4. The Claimant did provide a change of address to the Department on October 24, 2013.
5. The Department reduced the Claimant's FAP benefits on January 1, 2014 based upon the Claimant advising the Department that she was no longer paying rent and was living with her aunt.
6. The Department issued a Notice of Case Action on December 7, 2013 which decreased the Claimant's FAP benefits based upon a reduction of her Shelter obligation. Exhibit 1.
7. The Department closed the Claimant's FIP Cash Assistance benefits for failure to comply with the PATH Program participation requirements. A second sanction was imposed for no good cause and the FIP case was closed for 6 months.
8. The record did not establish whether the Claimant was also removed as a FAP group member due to non-participation with the PATH program.
9. It was not established whether a triage was conducted on October 28, 2013 as no one who attended the triage was present at the hearing.
10. On January 2, 2014 the Department received the Claimant's request for a hearing disputing the closure of his FIP case, the FAP benefits reduction.

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 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 1-2. 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 PATH appointment Notice or the Notice of Non Compliance. The Claimant also credibly testified that she was having problems with her mail and complained to the post office. It was also not established that the Department held a triage. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovic*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-*

Insurance Exchange, 67 Mich App 270 (1976). Based upon the Claimant's testimony that she did not receive the two notices and that she was having problems with her mail, it is determined that the Claimant did not receive the notices and thus had no notice that she had to attend the PATH orientation. 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 also did not establish that a triage was held. 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 testimony of the parties was considered and it is determined that the Department properly decreased the Claimant's food assistance benefits based upon the Claimant's oral statement to the Department that she was no longer paying rent.

It could not be determined based upon the evidence presented whether the Department further decreased the FAP benefits for PATH Participation non-compliance as no Notice of Case Action regarding its actions with regard to the PATH non-compliance was presented. Thus it is determined that, if the Department also reduced the Claimant's FAP benefits by removing her from her FAP group due to PATH non-compliance, the further reduction is not correct as it was determined that the FIP closure due to non-compliance with PATH participation was not upheld and thus the Claimant must be returned to her FAP group.

The Claimant may provide a shelter verification to the Department, as she testified that she is now currently paying rent again, but had not advised the Department of that fact until the hearing.

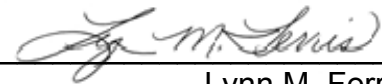
DECISION AND ORDER

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 decision is REVERSED.

The Department decision and action regarding the FAP reduction due to shelter deduction change is upheld and AFFIRMED.

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 as of the closure date, consistent with this Hearing Decision;
3. Determine whether the Claimant's FAP eligibility was further affected by the Department's decision to close the Claimant's FIP benefits for non-compliance with the PATH participation requirements by Claimant's removal from her FAP group, and if so reinstate the Claimant to her FAP group and issue a FAP supplement for FAP benefits she was otherwise entitled to receive in accordance with Department policy.
4. Begin issuing supplements to Claimant for any FIP benefits and FAP benefits if any, that Claimant was entitled to receive but did not receive as a result of the Department's action finding non-compliance with PATH program participation requirements.



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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc:

