

**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.: 2014-28983
Issue No(s): 1008;3001
Case No.: ██████████
Hearing Date: March 20, 2014
County: Wayne (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 March 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist.

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 November 7, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend a PATH appointment on November 18, 2013. (Exhibit 1)
3. On November 26, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on December 3, 2013 to discuss whether good cause existed for her noncompliance. (Exhibit 2)

4. On November 26, 2013, 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 FIP sanction effective January 1, 2014, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 3)
5. On February 20, 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, 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.

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 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, 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 (July 2013), p. 10. 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, as a condition of receiving FIP benefits, Claimant was required to participate in the PATH program. The Department testified that because Claimant did not attend her scheduled PATH appointment on November 18, 2013, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on December 3, 2013, to discuss whether or not she had good cause for her failure to attend PATH. The Department stated that Claimant failed to attend the triage meeting and did not contact the Department prior to the meeting to inform the Department that she was unable to attend. The Department testified that the triage was conducted in Claimant's absence, at which the Department determined that Claimant did not have good cause for her failure to cooperate with employment related activities, and initiated the closure of her FIP case, effective January 1, 2014.

At the hearing, Claimant confirmed that she received the PATH Appointment Notice and stated that on November 18, 2013, she attended her PATH appointment at the scheduled location. Claimant testified that because she did not have an ID with her, she was sent home from her appointment and told that she could not stay, despite providing a copy of her social security card. Claimant stated that at the time of the PATH appointment she was having some difficulties and did not have a valid photo ID to present at the PATH appointment. Claimant further testified that she attempted to contact her Department case worker on the same morning of the PATH appointment to inform her of the situation that occurred at the appointment but was unable to reach the Department case worker. The Department did not refute Claimant's testimony.

Additionally, Claimant testified that she did not attend the triage scheduled for December 3, 2013, because she never received the Notice of Noncompliance informing her of the meeting. Claimant also stated that she did not receive the Notice of Case Action informing her of the FIP case closure. The Department testified that because Claimant submitted an application for State Emergency Relief on November 12, 2013, and did not include her apartment number as part of her address, Bridges automatically changed the address on file for Claimant's FIP case, and removed the apartment

number from the address. A review of the Notice of Noncompliance and Notice of Case Action establishes that the apartment number was omitted from the address, making it very likely that Claimant did not receive the Notices.

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 did not act 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 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.

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, p. 2.

In this case, the Department sent Claimant a Notice of Case Action on November 26, 2013, informing her that the Department intended to disqualify her as a FAP group member and reduce the group's FAP benefits effective January 1, 2014 for her failure to participate in employment and/or self-sufficiency-related activities. (Exhibit 3).

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 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 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 sanction that was imposed on Claimant's FIP and FAP cases;
2. Reinstate Claimant's FIP case effective January 1, 2014;
3. Recalculate Claimant's FAP budget to include Claimant as a qualified FAP group member for January 1, 2014, ongoing;
4. Issue supplements to Claimant for any FIP and FAP benefits that she was entitled to receive but did not from January 1, 2014, ongoing; and
5. Notify Claimant of its decision in writing.



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

Date Signed: March 25, 2014

Date Mailed: March 25, 2014

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.

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

2014-28983/ZB

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

ZB/tm

cc|

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