

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

IN THE MATTER OF:



Reg. No.: 2014 33905
Issue No.: 1008, 3001
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Wayne County DHS 49

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case (cash assistance) and reduce the Claimant's Food Assistance due to the Claimant's failure to participate in employment-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 benefits and FAP benefits was assigned to attend the PATH program.
2. The claimant was assigned to attend Path Orientation for 30 hours weekly.
3. The Claimant was offered a re-engagement letter due to poor attendance and did not attend the program on the day he was to report due to oversleeping.
4. A Notice of Non-Compliance was sent to the Claimant on 3/12/14 scheduling a triage for 3/20/14.

5. The Department held a triage, which was attended by the Claimant and found no good cause for the failure of the Claimant to meet the terms of the re-engagement and attend the program beginning 3/10/14. The Claimant conceded that he did not attend as required and had overslept.
6. The Department issued a Notice of Case Action on 3/12/14 closing the Claimant's FIP Cash Assistance case for 3 months and imposed a first sanction for failure to attend the Path program and meet the attendance requirements.
7. On March 20, 2014, Claimant filed a hearing request disputing the Department's actions concerning the closure of his FIP (cash assistance) and reduction of his FAP (food Assistance) case due to noncompliance with the Path Program.

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), and Department of Human Services Reference Tables Manual (RFT).

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 (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, R 400.3001 through R 400.3015.

Additionally, the issue to be determined is whether the Department properly closed Claimant's FIP case and applied a three-month sanction to the case for failure by the Claimant to participate in employment related activities without good cause; and whether the Department properly reduced the Claimant's Food Assistance by removing the Claimant from his FAP group.

At the hearing, the Department established that, after receiving a re-engagement agreement he entered into on 3/3/14 for the PATH program, the Claimant failed to appear and attend PATH on March 10, 2014. Prior to the re-engagement, the Claimant's attendance had been poor. The Claimant's failure to re-engage occurred after the PATH Program had accepted another non-attendance because Claimant had to personally take his son to school for a meeting with the principal. Exhibit 1

The Department credibly testified that a triage was held and the Notices of Non-Compliance was sent to the correct address and that at the triage it determined that the Claimant did not demonstrate good cause as he failed to attend due to over sleeping.

Policy found in BEM 233A provides:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with PATH or other employment service provider.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity. BEM 233A, pp. 1 and 2, (7/1/13).

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months. BEM 233A pp. 8 (7/1/13)

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause.

- Determine FAP good cause separately from the FIP/RCA based on FAP good cause reasons defined later in this item. If a good cause reason is selected for FIP/RCA it also applies to FAP. If the client does not meet one of the FIP/RCA good cause reasons in the drop down list, but does meet one of the FAP only good cause reasons, select the FAP only good cause reason to avoid client disqualification on FAP. Bridges makes both determinations simultaneously.

When To Disqualify

Disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is **not** deferred from FAP work requirements; see DEFERRALS in BEM 230B.

The client did not have good cause for the non-compliance. BEM 233B pp. 1 and 2. (7/1//13)

Clearly, missing a PATH appointment due to oversleeping is not good cause. The good cause list for both FIP and FAP were examined and there is no basis in Department policy that would require a finding of good cause. As a condition for receipt of benefits, a WEI such as the Claimant must attend the PATH program. Based upon the record presented, the documentary evidence and the testimony of both the Department and the Claimant, it is determined that the Department correctly closed the Claimant's FIP and removed the Claimant from his FAP group for non-participation with the PATH program without good cause. The Claimant's argument that the Department erred when it considered his non-attendance due to having to take his child to school for a meeting with the principal as a second consecutive non-attendance. Under the circumstances, it is determined that the Department was only required to demonstrate one absence without good cause, and given the Claimant's poor attendance and failure to re-engage this argument does not change the department's finding that the Claimant did not demonstrate good cause for his failure to attend path on 3/10/14.

Because this was Claimant's first incident of noncompliance with FIP-related and FAP related employment activities, the Department properly applied a three-month closure sanction to his FIP cash assistance and properly reduced the Food Assistance allotment. The Department also correctly removed the Claimant from his FAP group due to noncompliance with employment related activities for a 3 month period BEM 233A, p 6, BEM 233B (7/1/13).

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 act properly when it closed Claimant's FIP case, applied a sanction to the FIP and Food Assistance case closing it for 3 months and removing Claimant from his FAP group for 3 months, thereby reducing the Claimant's FAP benefits due to noncompliance with work participation requirements without good cause.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.



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

Date Signed: April 29, 2014

Date Mailed: April 29, 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

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

LMF/tm

cc:

