

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-34115
Issue No(s): 1008; 3007
Case No.: ██████████
Hearing Date: April 28, 2014
County: Wayne (17)

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 telephone hearing was held on April 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist 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 and his spouse were ongoing recipients of FAP and FIP benefits. See Exhibit 1.
2. On May 7, 2013, the Medical Review Team (MRT) denied Claimant's spouse's deferral request. See Exhibit 1.

3. On May 22, 2013, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied his spouse's deferral and that she would have to participate in the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit 1.
4. On October 17, 2013, the MRT denied Claimant's deferral request. See Exhibit 1.
5. On December 10, 2013, the Department sent Claimant and his spouse a PATH Appointment Notice for them to attend their scheduled appointment on December 17, 2013. Exhibit 1.
6. On or around March 2014, Claimant indicated to the PATH program and Department that he and his spouse are unable to participate due to medical conditions and requested a deferral.
7. On March 5, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective April 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
8. On March 5, 2014, the Notice of Case Action also notified the Claimant that he and his spouse's FAP benefits were reduced effective April 1, 2014, to the amount of \$326 because they failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
9. On March 5, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant and his spouse for a triage appointment on March 13, 2014. Exhibit 1.
10. On March 13, 2014, Claimant and his spouse attended the triage appointment.
11. On March 13, 2014, the Department provided Claimant and his spouse a DHS-518, Assessment for FIP Participation, to be completed by their doctor to determine whether they are able to attend the PATH program. See Exhibit 1.
12. On March 17, 2014, the Department received a completed a DHS-518 from both Claimant and his spouse and found that both forms indicated they can participate in PATH and no new medical evidence was presented for an updated MRT decision. See Exhibit 1.
13. As of March 17, 2014, the Department found that Claimant and his spouse refused to participate in the PATH program and no good cause was present, therefore the FIP and FAP non-compliance was upheld. See Exhibit 1.
14. On March 27, 2014, Claimant filed a hearing request, protesting the 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 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. 4. 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. 4-6.

In this case, Claimant and his spouse were ongoing recipients of FAP and FIP benefits. See Exhibit 1. On May 7, 2013, the MRT denied Claimant's spouse's deferral request. See Exhibit 1. On May 22, 2013, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied his spouse's deferral and that she would have to participate in the PATH program. Exhibit 1. On October 17, 2013, the MRT denied Claimant's deferral request. See Exhibit 1.

On December 10, 2013, the Department sent Claimant and his spouse a PATH Appointment Notice for them to attend their scheduled appointment on December 17,

2013. Exhibit 1. At the hearing, the Department testified that Claimant requested medical deferrals for both him and spouse. Moreover, the Department testified its case notes indicated no PATH program participation from January 14, 2014 to February 25, 2014. Also, the Department testified that both attended on March 3, 2014 and indicated they were unable to participate and did not attend after this date. Ultimately, the Department appeared to acknowledge that Claimant and his spouse attended the PATH program, but refused to participate in it based on their alleged medical conditions. The Department inferred that based on their refusal to participate in the PATH program, this is what led to the non-compliance.

At the hearing, Claimant testified that he and his spouse attended and participated in the PATH program. Claimant testified that they did not refuse to participate in the program, but that they did request deferments for medical reasons.

Additionally, on or around March 2014, Claimant indicated to the PATH program and the Department that he and his spouse were unable to participate due to medical conditions and requested a deferral. Claimant testified that he and his wife were unable to participate due to their medical conditions. Claimant did not dispute that he was alleging the same medical conditions as MRT previously reviewed. Moreover, Claimant did not dispute that his wife was alleging the same medical conditions as MRT previously reviewed, however, indicated his wife had a new medical condition (depression). Claimant testified that he provided the medical evidence to the PATH program in March 2014. It appeared that the Department received the subsequent medical documentation requesting the deferral, but indicated no new medical evidence was provided. See Hearing Summary, Exhibit 1.

In the end, the Department testified that Claimant and his spouse refused to participate in the PATH program and found them in non-compliance. Thus, on March 5, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective April 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. On March 5, 2014, the Notice of Case Action also notified the Claimant that his and his spouse's FAP benefits were reduced effective April 1, 2014, to the amount of \$326 because they failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. Finally, on March 5, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant and his spouse for a triage appointment on March 13, 2014. Exhibit 1.

On March 13, 2014, Claimant and his spouse attended the triage appointment. On March 13, 2014, the Department testified that Claimant failed to provide any new medical documentation. However, the Department gave Claimant and his spouse an additional opportunity to submit new medical evidence. Thus, on March 13, 2014, the Department provided Claimant and his spouse a DHS-518, Assessment for FIP Participation, to be completed by their doctor to determine whether they are able to attend the PATH program. See Exhibit 1. On March 17, 2014, the Department received a completed a DHS-518 from both Claimant and his spouse and found that both forms indicated they can participate in PATH and no new medical evidence was

presented. See Exhibit 1. A review of both forms indicated no new medical evidence was submitted for both the Claimant and his spouse. See Exhibit 1. As of March 17, 2014, the Department found that Claimant and his spouse refused to participate in the PATH program and no good cause was present, therefore the FIP and FAP non-compliance was upheld. See Exhibit 1.

It should be noted that Claimant testified that at the triage he reiterated the same information that he and his spouse were unable to participate due to the medical conditions. However, Claimant testified that he notified the Department if it did not defer them, they would go back to the PATH program and participate.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A, p. 11.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A, p. 12. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 12. Step three involves the referral to MRT. See BEM 230A, p. 13. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 13.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, gather new verification and send for an updated MRT decision. BEM 230A, p. 16. When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, send the DHS-518, Assessment for FIP Participation, to the doctor and request supporting medical evidence. BEM 230A, p. 16. If new medical evidence is not provided, do not send the case back to the Medical Review Team. BEM 230A, p. 16. The previous MRT decision stands. BEM 230A, p. 16.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective April 1, 2014, ongoing. The evidence presented that Claimant and his spouse did not fail or refuse to participate with the PATH program and therefore, there was no non-compliance present in this case.

It should be noted that Claimant failed to present any new medical evidence for an updated MRT decision. A review of both DHS-518 forms submitted by the Claimant did not indicate any new medical evidence. See Exhibit 1. Therefore, the previous MRT decisions stand. See BEM 230A, p. 16.

Nevertheless, Claimant and his spouse did not fail and/or refuse to participate in the PATH program. The evidence presented that Claimant and his spouse did request deferments from the PATH program in March 2014. However, the evidence was not persuasive to conclude that Claimant and his spouse refused to participate in the PATH program. In fact, the Department acknowledged that Claimant and his spouse attended the PATH program. The non-compliance appeared to come from the Department's assertion that the Claimant and his spouse refused to participate in the program due to the alleged medical conditions. Claimant, though, credibly testified that he and his spouse attended and participated in the PATH program. Claimant did not deny his request for deferment; however, his testimony indicated they were still fully participating in the PATH program while awaiting their deferral request. Even though Claimant and his spouse failed to provide any new medical evidence, the evidence presented that they were participating the PATH program. As such, they were in compliance with the PATH program and it was improper for the Department to close the FIP case.

In summary, the Department properly determined that the previous MRT decision stands. See BEM 230A, p. 16. However, the Department failed to satisfy its burden of showing that Claimant and his spouse refused to participate in the PATH program. Instead, the evidence merely suggests that Claimant requested deferments, but they still appeared and participated in the PATH program. Therefore, the Department failed to establish a non-compliance by the Claimant or his spouse. See BEM 233A, pp. 1-3. Because there is no non-compliance present in this case, a good cause determination is not necessary. The Department will remove Claimant and his spouse's non-compliance and reinstate the FIP benefits.

FAP benefits

On March 5, 2014, the Notice of Case Action also notified the Claimant that his and his spouse's FAP benefits were reduced effective April 1, 2014, to the amount of \$326 because they failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that both Claimant and his spouse failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 1. Because the Department improperly closed Claimant's FIP case, it improperly reduced Claimant and his spouse's FAP benefits by excluding them as disqualified members of the FAP group. BEM 233B (July 2013), p. 6.

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 did not act in accordance with Department policy when it (i) improperly closed Claimant's FIP benefits effective April 1, 2014, ongoing; and (ii) improperly reduced Claimant's FAP benefits effective April 1, 2014, ongoing.

Accordingly, the Department's FAP and FIP 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 and his spouse's first FIP and FAP sanction from their case;
2. The Department shall remove Claimant and/or his spouse's disqualification from their FAP benefits;
3. The Department shall reinstate Claimant's FIP case as of April 1, 2014, ongoing;
4. The Department shall begin recalculating the FIP and FAP budgets for April 1, 2014 ongoing, in accordance with Department policy;
5. The Department shall supplement for FIP and FAP benefits that Claimant and his spouse were entitled to receive if otherwise eligible and qualified for April 1, 2014, ongoing, in accordance with department policy; and
6. The Department shall notify Claimant of the FIP and FAP determination in accordance with Department policy.



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

Date Signed: May 6, 2014

Date Mailed: May 6, 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
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[REDACTED]