

**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.: 14-016696
Issue No.: 1008; 3001
Case No.: ██████████
Hearing Date: January 5, 2015
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

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 January 5, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Specialist.

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 was an ongoing recipient of FIP and FAP benefits.
2. On September 6, 2014, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice, scheduling her for an appointment on September 15, 2014. See Exhibit 1, p. 5.

3. Claimant failed to attend the scheduled appointment.
4. On September 29, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 6, 2014. Exhibit 1, p. 6.
5. On September 29, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2014, ongoing, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 7-9.
6. On September 29, 2014, the Notice of Case Action also notified Claimant that her FAP benefits would be reduced effective November 1, 2014, to the amount of \$194 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 7-9.
7. On October 6, 2014, Claimant failed to attend her triage appointment and the Department reviewed her case file and found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
8. On November 19, 2014, Claimant filed a hearing request, protesting the FIP case closure and the amount of her FAP allotment. See Exhibit 1, pp. 5-6.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 determined during triage. BEM 233A, 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. 3. 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. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. On September 6, 2014, the Department sent Claimant a PATH Appointment Notice, scheduling her for an appointment on September 15, 2014. See Exhibit 1, p. 5. On September 29, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 6, 2014. Exhibit 1, p. 6. On October 6, 2014, Claimant failed to attend her triage appointment and the Department reviewed her case file and found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. As such, Claimant's FIP benefits closed effective November 1, 2014, based on her second non-compliance with the PATH program. It should be noted that Claimant testified that she did not receive the appointment notice or the noncompliance notice. However, it was unclear as to why the Department generated the PATH Appointment Notice in the first place.

In August 2014, Claimant testified that she obtained employment via the PATH program. Claimant testified that she was working five hours a day during the week (25 hours total per week). Claimant's testimony appeared to indicate this was her only requirement with the PATH program when she was employed. Claimant testified that she was in contact with her PATH worker at the time of employment. Finally, Claimant testified that she provided a verification of employment to the PATH program in August 2014.

In response, the Department first appeared to testify that the PATH Appointment Notice was generated due to Claimant's deferral ending. However, Claimant testified that she was not deferred. Second, the Department presented Claimant's PATH participation

history case notes (case notes). See Exhibit 1, pp. 10-14. The Department testified that it appeared Claimant was supposed to be triaged due to a non-compliance. But, the Department testified that rather than triage the Claimant, the Department and/or PATH program re-referred the Claimant. The Department testified this resulted in the PATH Appointment Notice being generated.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP benefits effective November 1, 2014.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, from its system at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229 (July 2013), p. 6. Most WEIs are referred to PATH provided by the one-stop service center serving the client's area when one of the following exists:

- A WEI applies for FIP.
- A WEI applies to be a member added to a FIP group.
- A WEI is no longer temporarily deferred from employment services.

BEM 230A, p. 4.

Additionally, required hours are the minimum number of hours per week on average the WEI is to participate in work-related activities to meet the federal work participation requirement. BEM 228 (July 2013), p. 14. There is a 20-hour requirement when the FIP group contains only one WEI when the youngest child in the group is less than six years old. BEM 225, p. 14. In this case, it appears that Claimant had a 20-hour requirement, as her household size was two (Claimant and her five-year-old child).

It was unclear why the Department generated the PATH Appointment in the first place. Claimant provided credible testimony that she was employed in August 2014 and that she was participating in the PATH program. In fact, the case notes indicated that Claimant was credited with 10 hours of work experience for the week of August 10, 2014. See Exhibit 1, p. 13. This supported Claimant's assertion that she was employed in August 2014 (ended in November 2014 due to car accident). Moreover, the Department gave contradictory testimony as to why the PATH Appointment Notice was even generated. Even though Claimant failed to attend the scheduled PATH appointment, the Department failed to satisfy its burden as to why it generated the PATH Appointment Notice in accordance with Department policy. See BEM 230A, p. 4. As a result, the Department is unable to establish that Claimant is in non-compliance with the PATH program. The Department will remove Claimant's second non-compliance and reinstate her FIP benefits effective November 1, 2014.

FAP benefits

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that Claimant had failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum six-month period. See BEM 233A, p. 1. Because the Department did not properly close Claimant's FIP case, it improperly reduced Claimant's FAP benefits by excluding her as a disqualified member of her FAP group. BEM 233B (July 2013), pp. 6-12.

Additionally, for FAP employment-related activities, the Department defers one person who personally provides care for a child under age six who is in the FAP group. BEM 230B (October 2013), p. 4. Also, if a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. BEM 233B, p. 2. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. BEM 233B, p. 2. No other deferral reasons apply for participants active FIP and FAP. BEM 233B, p. 2.

Based on this information, the Department also improperly reduced Claimant's FAP benefits by excluding her as a disqualified member of her FAP group. BEM 233B, pp. 1 - 9. The evidence indicated that Claimant personally provides care for a child under the age of six who is in the FAP group. Thus, Claimant should not have been disqualified from the FAP benefits. See BEM 230B, p. 4 and BEM 233B, p. 2.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP benefits effective November 1, 2014; and (ii) the Department improperly reduced Claimant's FAP benefits effective November 1, 2014.

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. Remove Claimant's second FAP/FIP sanction from her case;

2. Reinstate Claimant's FAP/FIP case effective November 1, 2014;
3. Issue Claimant's FAP/FIP supplements from November 1, 2014, ongoing; and
4. Notify Claimant of its FAP/FIP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Michigan Department of Human Services

Date Signed: **1/6/2015**

Date Mailed: **1/6/2015**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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