

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

IN THE MATTER OF:

████████████████████
██
████████████████████

Reg. No.: 14-017214
Issue Nos.: 1011, 3011
Case No.: ██████████
Hearing Date: January 12, 2015
County: Wayne (49-Gr River/Warren)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
████████

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce Claimant's Food Assistance Program (FAP) benefits?

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 October 9, 2014, the Department sent Claimant a notice of non-compliance with PATH for employment-related activities.
3. On October 9, 2014, the Department sent Claimant a notice of case action informing him of his decrease in FAP benefits effective November 1, 2014, due to Claimant's removal from his FAP group.
4. On November 24, 2014, Claimant requested a hearing to protest the reduction in his FAP benefits and the closure of his FIP benefits.

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

At the hearing, the Department argued that Claimant failed to participate in employment and/or self-sufficiency-related activities without good cause and would, therefore, have his FIP benefits closed. However, the Department failed to present evidence that it properly sent Claimant a notice informing him of the pending closure of his FIP benefits. BAM 220 (October 2014), pp. 1-2.

Therefore, Claimant's FIP sanction is to be removed and his FIP benefits are to be reinstated effective January 1, 2015.

FAP

Claimant was an ongoing recipient of FAP benefits. When the Department found no good cause for Claimant missing PATH appointments, it moved to reduce Claimant's FAP benefits by removing him from his FAP group due to his PATH non-compliance.

If a participant is active in FIP and FAP at the time of FIP noncompliance (as is the case here), determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. BEM 233B (July 2013).

Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, no 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 (October 2014).

Testimony at the hearing provided proof that the Department was aware of an ongoing child care barrier. The Department did not address Claimant's child care barrier and, thus, the lack of child care for his minor child is a good cause reason for his lack of participation in work-related activities.

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

- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it failed to satisfy its burden of showing that it acted in accordance with Department policy when it found no good cause for Claimant's failure to attend PATH appointments..
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .


DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.**
- REVERSED.**
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .

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. Reinstate the Claimant's FAP and FIP benefits back to November 1, 2014, and supplement for any missed benefits.



Michael J. Bennane
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/4/2015**

Date Mailed: **2/4/2015**

MJB / pf

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]