

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

IN THE MATTER OF:

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Reg. No.: 15-003851
Issue No.: 1008; 3008
Case No.: ██████████
Hearing Date: April 20, 2015
County: Wayne Pathways To Potential

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a 3-way telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Success Coach with Pathways to Potential.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her 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. Claimant had 11 members in her FAP and FIP groups: Claimant, her living-together-partner (LTP), and nine children.
3. The LTP was required to participate in the PATH program (Exhibit A).
4. On January 8, 2014, the LTP was referred to a job fair.
5. The LTP did not attend the job fair.
6. On February 5, 2015, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2015, her FIP case was closing because no

group member was an eligible child and her FAP benefits were decreasing because her shelter deduction had changed and her net unearned income had changed (Exhibit C).

7. On February 20, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that the LTP was in noncompliance with FIP employment-related activities and scheduling a triage on February 27, 2015, and (ii) a Notice of Case Action informing her that her FAP benefits had decreased because the LTP was disqualified from the group because of noncompliance with employment related activities (Exhibits D and E).
8. On February 23, 2015, the Department sent Claimant a Verification Checklist (VCL) notifying her that the triage was rescheduled from February 27, 2015, to March 4, 2015.
9. Claimant and the LTP attended the March 4, 2015, triage.
10. The Department concluded that the LTP failed to establish good cause for the noncompliance.
11. On March 9, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her FAP and FIP cases.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute the Department's actions concerning her FIP and FAP cases.

FIP

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 Department of Human Services) 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-.3131.

Although the Department contended that Claimant's FIP case was closed because the LTP had failed to comply with FIP employment-related activities by failing to attend a January 8, 2013, job fair, the February 5, 2015, Notice of Case Action notified Claimant that her FIP case was closing effective March 1, 2015, because there was no eligible

child in the household. Department policy provides that, when a FIP case closure is initiated before a Notice of Noncompliance, DHS-2444, is sent to the client, the Department may **not** proceed with the noncompliance determination. BEM 233A, pp. 13-14. Because Claimant was notified of the FIP closure due to the lack of eligible child on February 5, 2015, before the Department sent her the February 20, 2015, Notice of Noncompliance, the Department did **not** act in accordance with Department policy when it held the triage and concluded that the LTP was in noncompliance with employment related activities and did not have good cause. Because the Department erred in pursuing the noncompliance, any sanction applied to the LTP was also erroneous. BEM 233A, p. 8.

At the hearing, the Department acknowledged that there were eligible children in Claimant's household. BEM 210 (October 2014), p. 1. Therefore, the Department also failed to act in accordance with Department policy when it closed Claimant's FIP case based on lack of eligible children.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

On February 5, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits for the 11-member FAP group were decreasing effective March 1, 2015, because of a change in shelter and income (Exhibit C). At the hearing, the Department could not provide any information concerning the decrease in Claimant's FAP benefits effective March 1, 2015. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Claimant's FAP benefits effective March 1, 2015.

On February 20, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were again decreasing effective April 1, 2015, because the LTP was disqualified from the group because of his noncompliance with employment-related activities. The LTP was removed from the FAP group, leaving 10 FAP group members: Claimant and the nine children.

A client who is eligible for FIP and FAP and becomes noncompliant with the FIP employment-related requirements without good cause is disqualified from the FAP program. BEM 233B, pp. 1-2. However, as discussed above, the Department erred to the extent it pursued the noncompliance against the LTP and closed Claimant's FIP case due to the LTP's noncompliance without good cause. Therefore, the Department erred when it disqualified the LTP from Claimant's FAP group effective April 1, 2015, ongoing. Because the LTP remained a qualified FAP group member, the Department

did not act in accordance with Department policy when it removed him from the FAP group and reduced the group's FAP benefits. There was some evidence at the hearing that the LTP no longer resided in the home with Claimant. While this may establish that the LTP is no longer an eligible member of Claimant's FAP group, the Department nonetheless erred when it concluded that he was a disqualified member of the group.

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 closed Claimant's FIP case effective March 1, 2015, applied a FIP employment sanction to the LTP's record, and reduced Claimant's 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 any FIP and/or FAP employment related sanction applied to the LTP's record on or about March 1, 2015, or April 1, 2015;
2. Reinstate Claimant's FIP case effective March 1, 2015;
3. Recalculate Claimant's FAP benefits for March 1, 2015 ongoing to include the LTP as a qualified FAP group member; and
4. Issue supplements to Claimant for FIP and/or FAP benefits she was eligible to receive but did not from March 1, 2015, ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/29/2015**

Date Mailed: **4/29/2015**

ACE / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
[REDACTED]