

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-012284
Issue No.: 1008; 3001
Case No.: ██████████
Hearing Date: August 24, 2015
County: Wayne-District 4

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 telephone hearing was held on August 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Liaison/Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to failure to cooperate with employment-related activities and sanction the case for a three-month minimum case closure?

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

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 and participated in the PATH program as a condition of her FIP eligibility.
2. On June 2, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities on June 2, 2015 and scheduling a triage June 8, 2015 and (ii) a Notice of Case Action notifying her that, effective July 1, 2015, her FIP case was closing for a three-month minimum and her FAP case was closing (Exhibits A and B).

3. Claimant went to the triage location on June 8, 2015 but did not participate in the triage.
4. The Department concluded that Claimant did not have good cause for her noncompliance.
5. On July 6, 2015, Claimant requested a hearing disputing the Department's actions concerning her FIP and FAP 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).

FIP Case Closure

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.

The June 2, 2015 Notice of Case Action notified Claimant that her FIP case was closing because she had failed to comply with employment-related activities. As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (July 2015), p. 1; BEM 233A (May 2015), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to participate in employment and/or self-sufficiency-related activities. BEM 233A, p. 2. In this case, Claimant did not dispute that she was unable to complete her PATH requirements. Thus, she was in noncompliance with her employment activities.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. A noncompliance is excused if a client can establish good cause for the noncompliance. BEM 233A, p. 4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4.

In this case, Claimant did not participate in the triage. She testified that she had arrived several hours before the scheduled meeting time and when she asked if she could leave before the meeting, she was advised that it was fine and she should not worry about it. Although the Department worker at the hearing did not believe that the triage was held in Claimant's absence, the case notes show that the Department held the triage and found no good cause for Claimant's noncompliance.

Even if the client does not attend the triage, the Department must hold the triage and consider the noncompliance and whether the client has good cause for the noncompliance. BEM 233A, p. 8. Good cause may be verified by information already on file with the Department or PATH. BEM 233A, p. 8. In this case, the case notes indicate that Claimant notified her PATH worker on May 25, 2015 that her [REDACTED] was suspended from school for five-days and she would need to stay at home with him (Exhibit C). Claimant's explanation established a valid reason for her noncompliance with her PATH activities. Therefore, the Department did not act in accordance with Department policy when it failed to find that Claimant did not have good cause for her June 2, 2015 noncompliance.

In its hearing summary, the Department indicated that Claimant had failed to advise it of her son's behavioral issues and, if she had done so, her PATH activities could have been structured to accommodate her son's needs. Department policy provides that the Department must make reasonable efforts to ensure that persons caring for a child with disability-related needs or limitations will have an effective and meaningful opportunity to benefit from Department program and must make efforts to accommodate the person's needs. BEM 230A, pp. 2-3. Claimant credibly testified that she notified the Department at the time of her application that her minor child had behavioral issues that necessitated her being available to care for him when an issue arose at school and she provided the child's individualized education plan (IEP) to the Department to substantiate her claims. At the hearing, Claimant provided documentation from her son's school and therapists that corroborated her testimony concerning her son's behavioral issues (Exhibit 1). Under the facts in this case, the Department did not act in accordance with policy when it failed to accommodate Claimant's PATH activities to recognize her son's special needs.

FAP Case Closure

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.

The June 2, 2015 Notice of Case Action notified Claimant that her FAP case was closing effective July 1, 2015 because (1) she failed to comply with FIP-related

employment activities, (2) she failed to verify requested information, and (3) her net income exceeded the net income limit for FAP eligibility.

FAP Disqualification

The Notice indicated that Claimant and the child were removed from the FAP group. When a client active for FIP and FAP is in noncompliance with FIP related employment activities and the case does not involve a child under the age of 6 or a client enrolled in post-secondary education, the client is disqualified from the FAP group and the group's FAP benefits are decreased based on the decreased group size. BEM 230B (October 2013), pp. 1, 4, 5; BEM 233B (July 2013), p. 2; BEM 212 (July 2014), p. 8. As discussed above, the Department erred when it closed Claimant's FIP case. Therefore, the Department erred in disqualifying Claimant from her FAP group. The child, who was not a work-eligible employee, could not be disqualified from the FAP group. Thus, to the extent the child was removed from the FAP group, the Department erred.

Failure to Verify

The Notice also indicated that Claimant's FAP case was closing because she had failed to verify requested information. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2015), p. 3. At the hearing, the Department was unable to establish what information Claimant had been requested and failed to provide. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case due to failure to verify.

Net Income Ineligibility

Finally, the Notice also found that Claimant was ineligible for FAP because her net income exceeded the net income limit for eligibility. In order to be eligible for FAP benefits, a FAP group's net income must not exceed the applicable net income limit for FAP eligibility for the group size. BEM 550 (July 2015), p. 1. Because Claimant should not have been disqualified from her FAP group, her FAP group had two members: Claimant and her son. Based on a group size of two, the net income limit for FAP eligibility is \$1311. RFT 250 (October 2014), p. 1.

The FAP budget on the July 7, 2015 Notice of Case Action showing the information used to calculate Claimant's household's FAP eligibility was reviewed. The FAP budget showed a monthly income limit of \$973, which is the net income limit for a group size of one. RFT 250, p. 1. Because Claimant's FAP group had two members, the Department did not act in accordance with Department policy when it applied the FAP net income limit for a one-person FAP household.

The Notice also showed household income of \$1053. Claimant testified that the only income received by the household was her son's monthly \$733 Supplemental Security Income (SSI) and the quarterly \$42 State SSI Payment (SSP). Based on \$733 in monthly SSI and \$14 in monthly SSP, Claimant's household's monthly income totaled \$747. The Department was unable to explain what additional unearned income it

considered in calculating Claimant's total unearned income. Therefore, the Department failed to satisfy its burden of showing that it calculated Claimant's household's gross income in accordance with policy.

Further review of the information used in the budget shows that the Department properly applied the \$154 standard deduction for a two-person FAP group. RFT 255 (October 2014), p. 1. Although Claimant testified that her rent was greater than the \$55 budgeted by the Department, she admitted that she had not reported her increased rent until after she received the June 2, 2015 Notice of Case Action. Based on the information available to it, the Department properly considered \$55 in monthly rent for the FAP budget. Claimant confirmed that she had not reported any medical, child support, or dependent care expenses. Therefore, the Department properly did not provide a deduction for those expenses. The \$553 heat and utility standard is the most beneficial deduction for utilities available to a client. BEM 554 (October 2014), pp. 14-15; RFT 255, p. 1.

Because the Department did not apply the correct net income standard to Claimant's FAP eligibility and could not establish how it calculated the household's gross unearned monthly income, the Department did not calculate Claimant's net income in accordance with Department policy. Therefore, did not act in accordance with policy when it concluded that Claimant was net income ineligible for FAP benefits.

Because the Department improperly disqualified Claimant from her FAP group, did not establish any verifications Claimant failed to provide, and did not establish that she was not net income eligible for FAP, the Department improperly closed Claimant's FAP case.

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 and FAP cases and sanctioned the cases.

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 sanction applied to Claimant's FIP record on or about July 1, 2015;
2. Remove any disqualification applied to Claimant's FAP case on or about July 1, 2015;

3. Reinstate Claimant's FIP and FAP cases effective July 1, 2015;
4. Recalculate Claimant's FAP eligibility based on a two-person group size and corrected income amount;
5. Issue supplements to Claimant for any FIP and FAP benefits she was eligible to receive but did not from July 1, 2015 ongoing; and
6. Notify Claimant in writing of its decision.



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

Date Signed: **9/3/2015**

Date Mailed: **9/3/2015**

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:

Device Type	Percentage of Respondents
Smartphone	85%
Tablet	45%
Smartwatch	30%
Smart TV	25%
Smart Home Hub	20%
Smart Car	15%
Smart Thermostat	10%
Smart Light Bulb	5%