

**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.: 15-014817
Issue No.: 1008, 3001
Case No.: ██████████
Hearing Date: October 05, 2015
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 5, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her fiancé ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Family Independence Manager and ██████████, ██████████ Consultant.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits due to a 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. As a condition of receiving FIP benefits, Claimant and her fiancé were required to participate in approved education activities for 35 hours per week. Claimant and her fiancé were required to submit education logs detailing their weekly participation.
3. On August 7, 2015, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on August 14, 2015, to discuss whether good cause existed for her and her fiancé's alleged noncompliance. (Exhibit A)

4. On August 7, 2015, the Department sent Claimant a Notice of Case Action informing her that the Department intended to close her FIP case effective September 1, 2015, because she or a group member failed to participate in employment and/or self-sufficiency-related activities without good cause. The Notice informed Claimant that the FIP case will be closed for at least three months. (Exhibit C)
5. The August 7, 2015, Notice also informs Claimant that effective September 1, 2015, her FAP benefits would be decreased to \$357 and her group size reduced to two, because [REDACTED] failed to participate in a FAP employment related activity without good cause. (Exhibit C)
6. A triage was conducted on August 14, 2015, which Claimant attended. At the conclusion of the triage, the Department determined that Claimant and [REDACTED] did not have good cause for their noncompliance.
7. On August 14, 2015, Claimant requested a hearing disputing the Department's actions with respect to 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

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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (May 2015), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider; failing or refusing to appear for a scheduled appointment or meeting related to assigned activities; failing to provide legitimate documentation of work participation; failing to participate in a required activity; and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. The various good

cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6. BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A, pp. 1,9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (April 2015). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the Department testified that as a condition of receiving FIP benefits, Claimant and her fiancé, ██████████ were required to complete 35 weekly hours of approved education activities. The Department stated that Claimant and ██████████ were enrolled at ██████████ for six credit hours and nine credit hours, respectively and were instructed to submit weekly education logs detailing their participation in educational activities. The Department testified that because Claimant and ██████████ were not meeting the 35 hour weekly requirement, as ██████████ only completed his nine hours and Claimant completed six hours, and because there were no logs on file for Claimant, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on August 14, 2015, to discuss whether she and ██████████ had good cause for the failure to participate in required activities. (Exhibit A; Exhibit B).

The Department stated that prior to the hearing, it reviewed ██████████ case file and retrieved the Enrollment Verification letter as well as some of his education logs that were presented for review. (Exhibit B). Claimant and ██████████ asserted that the documents presented by the Department were incomplete, as some of ██████████ logs and all of Claimant's enrollment verification information and weekly logs were not included. Although the Department stated that there was no documentation in Claimant's case file for her enrollment in college or her education participation weekly logs, the Department acknowledged that it was aware that Claimant was enrolled and attending school for six credit hours that were considered approved education activity.

The Department stated that a triage was held on August 14, 2015, which Claimant and ██████ attended. The Department testified that at the triage, Claimant and ██████ stated that they were unaware that their weekly study time was not countable towards the 35 hour education participation requirement. The Department concluded that Claimant did not establish that she and ██████ had good cause for the failure to participate in the 35 hours per week of required education activities. The Department initiated the closure of Claimant's FIP case effective September 1, 2015, imposing a three month sanction for the first occurrence of noncompliance without good cause. (Exhibit C).

At the hearing, Claimant and ██████ disputed the Department's conclusion that they were noncompliant and stated that the education logs were signed and submitted in person to their PATH worker. Claimant and ██████ stated that they were informed that their weekly required study time hours would be counted towards their 35 hour requirement. A review of the Enrollment Verification for ██████ shows that he had 18 hours of required study time per week. (Exhibit B). The Department asserted that per PATH policy, because Claimant and ██████ were not enrolled for 10 credit hours each, the required study time hours are not countable towards their 35 hour weekly requirement, which resulted in noncompliance. Claimant further testified that as a two parent household, she and ██████ were enrolled for 10 credit hours combined, however, the Department stated that the policy requires that each student be enrolled in 10 credit hours individually. Claimant and ██████ maintained that had they known the study time hours would not be countable at the start of the semester in May/June 2015, they would have fulfilled the remaining required hours through job search which the Department did not offer as an alternative.

After a thorough review of the evidence presented, Department policy and the PATH Program Manual (which can be found at http://www.michigan.gov/documents/wda/14-12_OFFICIAL_PATH_Manual_474335_7.pdf), the Department has failed to establish that Claimant and ██████ were noncompliant with PATH requirements. Based on the Department's testimony and the evidence as presented, Claimant and ██████ education activities were approved at the start of the summer semester and the Department was aware that each was enrolled for six and nine credit hours, respectfully. It was unclear how Claimant and ██████ were required to complete the additional weekly hours to reach the 35 hour requirement, however, if the study time was not countable. Additionally, the evidence was insufficient to show that Claimant and ██████ were given other opportunities to fulfil the remaining weekly hour requirements prior to being placed in noncompliance. Despite ██████ testimony, the PATH Manual does not indicate that in order for study time to be countable, an individual must be enrolled in 10 credit hours.

Under the facts in this 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 failed to satisfy its burden that it acted in accordance with Department policy when it determined that Claimant and ██████ were

noncompliant with employment related activities without good cause, closed the FIP case and imposed a three month sanction.

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.

Additionally, noncompliance without good cause with employment requirements for FIP may affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (July 2013), p. 1. An individual is disqualified from a FAP group for noncompliance when the client had active FIP and FAP benefits on the date of the FIP noncompliance; the client did not comply with the FIP employment requirements; the client is subject to penalty on the FIP program; the client is not deferred from FAP work requirements; and the client did not have good cause for the noncompliance. BEM 233B, pp. 2-3. Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. For the first occurrence of noncompliance without good cause, the Department will disqualify the client for one month or until compliance, whichever is longer. For the second occurrence of noncompliance without good cause, the Department will disqualify the client for six months or until compliance, whichever is longer. BEM 233B, p. 6.

In this case, the Department testified that Claimant's FAP benefits were reduced and [REDACTED] was disqualified as a FAP group member because of the noncompliance with FIP work requirements discussed above. On August 7, 2015, the Department sent Claimant a Notice of Case Action informing her that effective September 1, 2015, her FAP benefits would be decreased to \$357 and group size reduced to two, because [REDACTED] failed to participate in employment related activities without good cause. The Notice does not disqualify Claimant or reference her alleged failure to participate in FIP or FAP employment related activities, as she is still listed as a member of the FAP group. (Exhibit C).

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 because as discussed above, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case for failure to participate in employment and/or self-sufficiency-related activities without good cause and imposed a three month sanction, the Department also did not act in accordance with Department policy when it reduced Claimant's FAP benefits and disqualified [REDACTED] as a group member for noncompliance with FIP employment related activities without good cause.

DECISION AND ORDER

Accordingly, the Department's FIP and FAP decisions are **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 the noncompliance sanctions/penalties that were imposed on Claimant's FIP and FAP cases;
2. Reinstate Claimant's FIP case effective September 1, 2015;
3. Issue FIP supplements to Claimant from September 1, 201, ongoing, in accordance with Department policy;
4. Recalculate Claimant's FAP budget to include [REDACTED] as a qualified FAP group member for September 1, 2015, ongoing;
5. Issue FAP supplements to Claimant from September 1, 2015, ongoing, in accordance with Department policy; and
6. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/13/2015**

Date Mailed: **10/13/2015**

ZB / 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]
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