

**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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MAHS Reg. No.: 15-021239
Issue No.: 1008; 3008
Agency Case No.: ██████████
Hearing Date: January 25, 2016
County: St. Clair

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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, an in-person hearing was held on January 25, 2016, from Port Huron, Michigan. Petitioner appeared and represented herself. The Department was represented by ██████████, PATH Coordinator, and ██████████, Michigan Works Case Manager.

ISSUE

Did the Department fail to properly issue to Petitioner Family Independence Program (FIP) benefits she was eligible to receive for the first half of September 2015?

Did the Department properly close Petitioner's FIP case effective December 1, 2015 due to failure to comply with employment-related activities?

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits due to her failure to comply with FIP employment-related activities?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of FAP benefits.
2. Petitioner first applied for FIP benefits on August 11, 2015 and reapplied on August 27, 2015 (Exhibit D).
3. Petitioner received FIP benefits beginning the second half of September 2015.

4. On September 3, 2015, Petitioner signed an acknowledgement concerning the PATH work participation requirements, including the requirement that she appear for any scheduled appointment or meeting as required by the PATH program (Exhibit A, p. 6).
5. On October 29, 2015, Petitioner signed a PATH Appointment Notice indicating that she was required to attend an orientation on November 2, 2015 at 8:30 am (Exhibit A, p. 5).
6. Petitioner did not attend the November 2, 2015 appointment.
7. On November 2, 2015, the Department sent Petitioner (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage on November 12, 2015 and (ii) a Notice of Case Action notifying her that her FIP case was closing effective December 1, 2015 for a three-month minimum because of her noncompliance with employment-related activities and her FAP benefits were decreasing to \$357 for a one-month minimum because she was removed from the FAP group for failure to participate in employment-related activities (Exhibit A, pp. 7-8, 10-12).
8. Petitioner participated in the triage by phone; the Department concluded that she did not have good cause for her noncompliance.
9. On November 13, 2015, the Department received Petitioner's request for hearing disputing the Department's failure to issue FIP benefits for the first half of September 2015 and for closing her FIP case and reducing her FAP benefits (Exhibit A, pp. 2-4).

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).

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 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.

Petitioner requested a hearing to dispute the Department's failure to issue her FIP benefits for the first half of September 2015 and the closure of her FIP case and reduction of FAP benefits due to noncompliance with employment related activities.

September 2015 FIP Supplement

Petitioner argued that she was eligible for a FIP supplement for the first half of September 2015. The evidence established that Petitioner had applied for cash assistance under the FIP program on August 11, 2015 and on August 26, 2015. It appears that Petitioner's August 11, 2015 application was denied but because Petitioner's worker had misadvised Petitioner concerning her FIP obligations, the PATH coordinator agreed in a signed writing to honor the August 11, 2015 application date in determining Petitioner's FIP eligibility if she successfully completed her 21-day application eligibility period (AEP) (Exhibit 1).

Department policy provides that FIP assistance begins in the pay period in which the application becomes 30 days old if the FIP group meets all eligibility requirements. BAM 115 (July 2015), p. 25. If the application becomes 30 days old and the group has not met eligibility requirements, assistance begins the first pay period when it does. BAM 115, p. 25. The August 11, 2015 application became 30 days old during the FIP pay period beginning September 1, 2015.

The Department acknowledged that Petitioner completed the 21-day AEP and, in light of the August 11, 2015 application, was entitled to benefits beginning September 1, 2015. However, the Department was unable to issue benefits for the first half of September 2015. It provided evidence that a help desk ticket, [REDACTED], was filed but continued to be pending as of the hearing date (Exhibit B). Because the Department concedes that Petitioner was eligible for a FIP supplement for the first half of September 2015 and acknowledges that one has not been issued, the Department has failed to act in accordance with policy in issuing the supplement. See BAM 405 (July 2013), p. 1.

FIP Case Closure

The November 2, 2015 Notice of Case Action notified Petitioner 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 (October 2015), p. 1; BEM 233A (May 2015), p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

In this case, the Department established that Petitioner had an appointment to attend a PATH orientation on November 2, 2015 at 8:30 am (Exhibit A, p. 5). Petitioner did not attend this appointment. Therefore, Petitioner was noncompliant with employment-related 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, Petitioner participated in the triage, explaining that she missed the appointment because she had to get her daughter to school and would not be able to make it by the 8:30 am scheduled appointment time. She explained that her PATH worker was aware that she would not be able to attend the November 2, 2015 appointment and encouraged her to miss the appointment so that she would be triaged and could have her concerns regarding the September FIP supplement addressed.

The Department's failure to issue the September 2015 FIP supplement to Petitioner did not affect her ability to attend the November 2, 2015 PATH appointment. To the contrary, the FIP supplement is unrelated to Petitioner's failure to attend the appointment. Thus, Petitioner failed to establish good cause for her failure to attend the November 2, 2015 appointment based on the Department's failure to issue the FIP supplement.

Petitioner's explanation that she could not attend the November 2, 2015 meeting because she had to get her daughter to school would also fail to establish a good cause explanation based on the circumstances presented. The evidence showed that Petitioner signed the PATH appointment notice and was therefore aware that the appointment was scheduled at 8:30 am. She did not indicate on the notice that she would not attend or had any issues preventing her attendance. The case notes indicate that Petitioner did not identify any transportation, day care or other barriers at the time the appointment was scheduled (Exhibit A, p. 9). Therefore, Petitioner failed to establish good cause for failure to attend the PATH appointment due to her daughter's schedule.

Based on the evidence presented, Petitioner failed to establish good cause for her noncompliance. Therefore, the Department acted in accordance with Department policy when it closed Petitioner's FIP case. Because this was the first occurrence of FIP-related employment noncompliance, the Department properly sanctioned Petitioner's case with a minimum three month closure. BEM 233A, p. 8.

FAP Reduction

Petitioner was also concerned about the reduction in her FAP benefits. The Department explained that Petitioner's FAP benefits decreased because she was removed from the FAP group because of her FIP-related employment noncompliance.

Clients active in FIP and FAP who become noncompliant with a cash program requirement without good cause are subject to a FAP penalty unless the client is eligible for a FIP deferral outlined in BEM 230A or a FAP deferral reason of care of a child under six or education. BEM 233B (July 2013), pp. 1-2. The client is disqualified as a FAP group member for noncompliance when all of the following exist: (i) the client was active for both FIP and FAP on the date of the FIP noncompliance; (ii) the client did not comply with the FIP employment requirements; (iii) the client is subject to a penalty on the FIP program; (iv) the client is not deferred from FAP work requirements; and (v) the client did not have good cause for the noncompliance. BEM 233B, p. 3. For the first occurrence of FAP noncompliance, the client is disqualified from the FAP group for one month or until the client reestablishes FAP eligibility in accordance with policy, whichever is longer. BEM 233B, pp. 6, 10-12.

In this case, because Petitioner is found to have failed to comply with FIP-employment related activities without good cause and does not meet the criteria for a FIP or FAP deferral, she is a disqualified member of her FAP group. Therefore, the Department properly removed her from her FAP group and recalculated the household's FAP eligibility based on a two-person FAP group size. The maximum monthly FAP benefits available to a two-person FAP group is \$357. RFT 260 (October 2015), p. 1. Therefore, the Department acted in accordance with Department policy when it reduced Petitioner's monthly FAP benefits to \$357 effective December 1, 2015.

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 closed Petitioner's FIP case and reduced her FAP benefits but did not act in accordance with Department policy when it failed to issue Petitioner's FIP supplement for the first half of September 2015.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to closure of Petitioner's FIP case for a minimum three-month period and reduction of her FAP benefits for a minimum one-month period and **REVERSED IN PART** with respect to failure to issue to Petitioner her FIP benefits for the first half of September 2015.

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. Issue a supplement to Petitioner for FIP benefits she was eligible to receive for the first half of September 2015 but has not received.



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

Date Signed: **2/3/2016**

Date Mailed: **2/3/2016**

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]
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