

**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.: 16-000234
Issue No.: 1008;3001;7001
Agency Case No.: ██████████
Hearing Date: February 22, 2016
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a telephone hearing was held on February 22, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department was represented by ██████████ ██████████, Family Independence Manager and ██████████, Family Independence Specialist.

ISSUES

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to a failure to participate in employment and/or self sufficiency-related activities without good cause?

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

Did the Department properly process Petitioner's request for Direct Support Services (DSS) assistance with vehicle purchase?

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 was an ongoing FIP and FAP recipient.
2. For an unexplained reason, Petitioner's FAP case closed effective November 1, 2015. (Exhibit D)

3. On November 2, 2015, the Department sent Petitioner a PATH Appointment Notice instructing her to attend the PATH program on November 9, 2015. (Exhibit A)
4. On November 21, 2015, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on November 30, 2015, to discuss whether good cause existed for her alleged noncompliance. (Exhibit B)
5. On November 21, 2015, the Department sent Petitioner a Notice of Case Action informing her that the Department intended to close her FIP case effective January 1, 2016, because she 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 three months from 1/1/16 to 3/31/16. (Exhibit C)
6. On December 2, 2015, Petitioner requested DSS assistance with a vehicle purchase and submitted verification of a purchase agreement and her paystubs. (Exhibit E)
7. On January 8, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her FIP, FAP, and DSS 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 because Petitioner did not attend her PATH appointment on November 9, 2015, she was placed in noncompliance with employment related activities and a triage was scheduled for November 30, 2015. A triage was conducted on November 30, 2015, which Petitioner attended. Although the Department informed Petitioner that she had good cause for her failure to attend her PATH appointment and stated that it would reinstate her FIP case, the Department initiated the closure of Petitioner's FIP case effective January 1, 2016, and imposed a three month sanction. The Department notified Petitioner of the case closure by sending her a Notice of Case Action.

At the hearing, the Department testified that Petitioner's FIP case was closed improperly, as Petitioner's prior case worker gave her incorrect information concerning the requirements for her PATH participation. At the time of the PATH appointment, Petitioner was employed part-time. The Department acknowledged Petitioner contacted the Department prior to her scheduled PATH appointment on November 9, 2015, to inquire about her PATH attendance, as she was working part-time and was notified by her case worker that she was not required to attend PATH based on her part time employment. However, this information is incorrect, as Department policy provides that the employment must be 40 hours per week in order to meet the employment requirements for FIP. BEM 230A (October 2015), pp. 7-8.

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 based on the Department's testimony and the acknowledgements made at the hearing, the Department did not act in accordance with Department policy when it determined that Petitioner was noncompliant with employment related activities without good cause, closed her 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.

In this case, Petitioner requested a hearing disputing the closure of her FAP case. Petitioner stated that she has not received FAP benefits since October 2015 and that her case closed effective November 1, 2015, without any notice. At the hearing, the Department presented a FAP Benefit Summary Inquiry which confirms that Petitioner last received FAP benefits in October 2015. (Exhibit D). The Department further confirmed that no notices were sent to Petitioner concerning the closure of her FAP case. BAM 220 (October 2015). The Department stated that there was no evidence to support a case closure effective November 1, 2015, and stated that the case closure was improper.

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 Petitioner's FAP case effective November 1, 2015.

DSS

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

DSS are goods and services provided to help families achieve self-sufficiency and include Employment Support Service (ESS) which allows for vehicle purchase. BEM 232 (October 2014), p. 1. There is no entitlement for DSS. BEM 232, p. 1. The decision to authorize DSS is within the discretion of the Department or PATH program. BEM 232, p. 1. The Department may authorize up to \$2,000 to purchase, not lease, a vehicle to be used as a participant's primary means of transportation for work or employment-related activities. Vehicle purchase is limited to once in a client's lifetime. BEM 232, pp.16-17.

In addition and among other things, prior to authorizing the purchase, the Department is to ensure: that public transportation is not reasonably available (such as, considering the location and hours of the employment, child care or long commute as defined as good cause in BEM 233A), and the person has no other means to reach the job site reliably; and that the client has the ability to afford any payments, insurance, and other expenses associated with owning the vehicle. BEM 232, pp. 16-17. Furthermore, before approving a vehicle purchase, the Department is to ensure that any additional payment above the allocation from the Department are affordable by the client, and will in no way hinder the client's progress towards self-sufficiency and financial independence. BEM 232, p. 17. The Department is to send a DHS-1605, Client Notice, informing the client of the outcome of the DSS request. BEM 232, p.7.

In this case, Petitioner requested a hearing disputing the Department's failure to process her request for DSS assistance with a vehicle purchase. Petitioner stated that she provided the Department with a purchase agreement and with her paystubs to verify that her place of employment was not on a bus route. The Department confirmed that Petitioner provided the verification necessary on December 2, 2015, however, Petitioner's prior case worker did not process her request. Petitioner stated and the Department confirmed that a Client Notice was not issued to inform Petitioner of the outcome of her DSS request.

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 failed to process Petitioner's request for DSS assistance with vehicle purchase.

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. Reinstate Petitioner's FAP case effective November 1, 2015;
2. Issue FAP supplements to Petitioner from November 1, 2015, ongoing, in accordance with Department policy;
3. Process Petitioner's December 2, 2015, request for DSS assistance with vehicle purchase;

4. Provide Petitioner with any DSS assistance with vehicle purchase that she was eligible to receive but did not;
5. Remove the noncompliance penalty/sanction that was imposed on Petitioner's FIP case;
6. Reinstate Petitioner's FIP case effective the date of closure, January 1, 2016;
7. Issue FIP supplements to Petitioner from January 1, 2016, ongoing, in accordance with Department policy; and
8. Notify Petitioner in writing of all decisions.



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

Date Signed: **3/1/2016**

Date Mailed: **3/1/2016**

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]