

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: [REDACTED]
Issue No.: 1008; 2000; 2010; 3001; 4000
Case No.: [REDACTED]
Hearing Date: [REDACTED] 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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. After due notice, a telephone hearing was held on [REDACTED] 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included Gwendolyn Wilson, Family Independence Specialist.

ISSUES

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's 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 benefits.
2. Claimant is an ongoing recipient of FAP benefits.

3. As part of Claimant's requirements for the Partnership. Accountability. Training. Hope. (PATH) program, she had to attend weekly PATH appointments and submit weekly job search logs totaling 20 hours.
4. From on or around [REDACTED] 2014 to [REDACTED] 2014, Claimant failed to attend her scheduled PATH appointments or turn in her required job search logs.
5. On [REDACTED], 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on [REDACTED], 2014. Exhibit 1, pp. 7-8.
6. On [REDACTED], 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective [REDACTED], 2014, ongoing, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 9-13.
7. On [REDACTED], 2014, the Notice of Case Action also notified Claimant that her FAP benefits would be reduced effective [REDACTED], 2014, to the amount of [REDACTED] because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 9-13.
8. On [REDACTED], 2014, Claimant failed to attend her triage appointment; however, the Department failed to conduct a good cause determination even if she did not attend the triage appointment.
9. On [REDACTED], 2014, Claimant filed a hearing request, disputing her FIP case closure, Medical Assistance (MA) / Adult Medical Program (AMP) benefits, FAP benefits, and the State Disability Assistance (SDA) program benefits. See Exhibit 1, pp. 2-3.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) 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 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Preliminary matters

First, Claimant requested a hearing to dispute her and her son's MA benefits (including the AMP program). See Exhibit 1, p. 2. Shortly after commencement of the hearing, Claimant testified that she and her son received MA benefits and she is no longer disputing the MA and/or AMP program. In fact, it appears Claimant is not an ongoing recipient of AMP benefits and she disputed the AMP program in error. Nevertheless, the Department presented evidence that Claimant and her son receive ongoing MA coverage. See Exhibit 1, pp. 14-17. As such, Claimant and her son's MA/AMP hearing request is DISMISSED.

Second, Claimant also requested a hearing to dispute the SDA program. See Exhibit 1, p. 2. Again, though, Claimant appeared to check mark her dispute with the SDA program in error. Claimant testified that she is only disputing the closure of her Cash benefits. In this case, Claimant was an ongoing recipient of FIP (Cash) benefits, which closed effective December 1, 2014. See Exhibit 1, pp. 9-10. Claimant was not a recipient of SDA (Cash) benefits. As such, Claimant's SDA hearing request is DISMISSED.

FIP benefits

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or

engaged in activities that meet participation requirements. BEM 230A (October 2014), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (October 2014), p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

As part of Claimant's requirements for the PATH program, she had to attend her weekly PATH appointments and submit weekly job search logs totaling 20 hours. During the hearing, the Department presented Claimant's update/view case notes (case notes), which showed her PATH participation history. See Exhibit 1, pp. 5-6. On October 15, 2014, the case notes indicated that Claimant failed to appear for her scheduled appointment and she did not turn in her required logs. See Exhibit 1, p. 5. Claimant testified that this was an improper notation in the case notes. Claimant testified that she did submit her weekly job search logs and attended her appointments. Claimant testified that if she was unable to attend her weekly PATH appointments, she would contact her PATH worker and would arrive the following week to submit her job search logs.

On [REDACTED], 2014, the PATH program attempted to contact the Claimant and left her a voicemail. See Exhibit 1, p. 5. Claimant acknowledged she received the voicemail and she testified that she attempted to call the PATH program on or around [REDACTED] 2014.

On or around [REDACTED], 2014, the PATH program indicated it sent Claimant a Noncompliance Warning Notice, which scheduled her for a re-engagement appointment on [REDACTED], 2014. See Exhibit 1, p. 5. The case notes indicated Claimant did not show for her re-engagement appointment nor has she attempted to make contact with the PATH program. See Exhibit 1, p. 5. Claimant testified she could not recall if she received the Noncompliance Warning Notice.

On [REDACTED], 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on [REDACTED] 2014. Exhibit 1, pp. 7-8. On [REDACTED] 2014, Claimant failed to attend her triage appointment. The Department testified that it was unsure if it conducted a good cause determination even if Claimant did not attend the triage appointment. In response, Claimant testified that she called her PATH worker on or around [REDACTED], 2014, to inform the PATH worker that she was unable to attend the triage appointment. Claimant testified that she

was sick (pregnant at the time) and would be unable to attend the scheduled appointment. Claimant, though, acknowledged she did not contact her DHS caseworker to reschedule the triage appointment.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP benefits effective [REDACTED], 2014.

First, the evidence established that Claimant was in non-compliance with the PATH program. The evidence indicated that from on or around [REDACTED], 2014 to [REDACTED], 2014, Claimant failed to attend her scheduled PATH appointment or turn in her required job search logs. As such, Claimant was in non-compliance with the PATH program due to her failure or refusal participate in employment and/or self-sufficiency-related activities. See BEM 233A, p. 2.

Second, the Department determines good cause based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. Good cause may be verified by information already on file with DHS or PATH. BEM 233A, p. 9. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation). BEM 233A, pp. 9-10. The evidence presented that the Department failed to conduct a good cause determination during the triage even if the Claimant did not attend. See BEM 233A, pp. 9-10. As such, the Department improperly closed Claimant's FIP benefits effective [REDACTED], 2014. BEM 233A, pp. 9-10. The Department will remove Claimant's sanction and reinstate her FIP benefits. However, the Department will notify Claimant in writing of a new triage meeting to determine if she had a good cause reason for the noncompliance, in accordance with Department policy. See BEM 233A, pp. 9-10.

FAP benefits

On [REDACTED], 2014, the Notice of Case Action also notified Claimant that her FAP benefits would be reduced effective [REDACTED] 2014, to the amount of \$[REDACTED] because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 9-13.

For FAP employment-related activities, the Department defers one person who personally provides care for a child under age six who is in the FAP group. BEM 230B (October 2013), p. 4. Also, if a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. BEM 233B (July 2013), p. 2. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. BEM 233B, p. 2. No other deferral reasons apply for participants active FIP and FAP. BEM 233B, p. 2.

Based on this information, the Department improperly generated the Notice of Case Action notifying Claimant that her FAP benefits would decrease due to the non-compliance. BEM 233B, pp. 1 - 9. The evidence indicated that Claimant personally provides care for a child under the age of six who is in the FAP group. Thus, Claimant should have not been disqualified from the FAP benefits. See BEM 230B, p. 4 and BEM 233B, p. 2. Moreover, it was discovered during the hearing that the Department subsequently corrected the FAP error. Claimant and the Department acknowledged that she received her proper FAP allotment effective [REDACTED], 2014, ongoing. Nevertheless, the Department will remove Claimant's FAP sanction and issue her FAP supplements she is entitled to receive effective [REDACTED], 2014, ongoing (if not already completed), in accordance with Department policy.

DECISION AND ORDER


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 of showing that it acted in accordance with Department policy when it closed Claimant's FIP benefits effective [REDACTED], 2014 and improperly reduced Claimant's FAP benefits effective [REDACTED] 2014.

Accordingly, the Department's FIP and FAP 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 Claimant's first FIP/FAP sanction from her case;
2. Reinstate Claimant's FIP case effective [REDACTED], 2014;
3. Issue supplements to Claimant for FIP/FAP benefits she was entitled to receive effective [REDACTED], 2014; and
4. Notify Claimant in writing of a new triage meeting to determine if she had a good cause reason for the noncompliance, in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA/AMP and SDA hearing request (dated [REDACTED], 2014) is **DISMISSED**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Michigan Department of Human Services

Date Signed: [REDACTED] 2015

Date Mailed: [REDACTED] 2015

EJF / cl

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:



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