

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

IN THE MATTER OF:



Reg. No.: 14-000727
Issue No.: 1008; 2000; 3007
Case No.: [REDACTED]
Hearing Date: May 7, 2014
County: WAYNE-DISTRICT 18

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 May 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included Shirley Laster, 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 and FAP benefits. See Exhibit 1.
2. On February 6, 2014, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice, which scheduled her for an appointment on February 18, 2014. See Exhibit 1.
3. Claimant did not attend her scheduled appointment.

4. On February 25, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on March 4, 2014. Exhibit 1.
5. On February 25, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective April 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
6. On February 25, 2014, the Notice of Case Action also notified the Claimant that her FAP benefits were reduced effective April 1, 2014, to the amount of \$211 because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
7. On March 4, 2014, Claimant did not attend her triage appointment; however, the Department still reviewed her case and found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activities.
8. On April 8, 2014, Claimant filed a hearing request, disputing her FIP case closure, FAP reduction, and Medical Assistance (MA) benefits. See Exhibit 1.

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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Preliminary matters

First, on April 8, 2014, Claimant filed a hearing request, to dispute her MA benefits. See Exhibit 1. During the hearing, Claimant testified that she is no longer disputing her MA benefits. As such, Claimant's MA hearing request is DISMISSED.

Second, on April 8, 2014, Claimant testified that at the same time she requested her hearing, she also submitted updated housing costs. Reviewing the budget from the Notice of Case Action indicated that Claimant's housing costs were zero. See Exhibit 1. Claiming agreed that her housing costs were zero; however, she testified that she submitted documents reflecting an increase in housing costs on April 8, 2014.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2014), p. 9. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 9. These include, but are not limited to, changes address and shelter cost changes that result from the move. BAM 105, p. 9. The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2014), p. 6.

Based on the foregoing information, this hearing decision lacks the jurisdiction to address Claimant's alleged change report (shelter costs). See BAM 600 (March 2014), pp. 4-6. Claimant allegedly reported her change on April 8, 2014. The Department has 10 days to act on this reported change. See BAM 220, p. 6. The failure to act on the reported change would occur subsequent to this hearing request. Therefore, this hearing lacks the jurisdiction to address the alleged change report (shelter costs). See BAM 600, pp. 4-6. Claimant can request another hearing to dispute the Department's failure to process a change report. See BAM 600, pp. 4-6.

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 2013), 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 (July 2013), p. 9. Good cause is determined during triage. BEM 233A, 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. 3. 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. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. See Exhibit 1. On February 6, 2014, the Department sent Claimant a PATH Appointment Notice, which scheduled her for an appointment on February 18, 2014. See Exhibit 1. The Department testified that Claimant did not attend her scheduled appointment. Thus, on February 25, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on March 4, 2014. Exhibit 1. On February 25, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective April 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.

At the hearing, Claimant did not dispute that she received the PATH Appointment Notice dated February 6, 2014. Claimant, though, testified that she was scheduled to work on her appointment date of February 18, 2014. Claimant testified that upon receipt of the appointment notice, she contacted the Department regarding the scheduling conflict. Claimant testified that her PATH worker informed her that she should always attend her work before attending her PATH appointments. See Request for Hearing, Exhibit 1. Nonetheless, Claimant testified that she left a voicemail for the Department and never received a response. Moreover, Claimant testified that she did contact the Department again, but could not leave a voicemail. The Department testified that it could not recall and/or did not remember receiving any phone calls from the Claimant.

Additionally, on March 4, 2014, Claimant did not attend her triage appointment; however, the Department testified that it still reviewed her case and found no good cause for her failure to attend an employment and/or self-sufficiency related activities.

Claimant, again, provided similar testimony as stated above regarding the PATH Appointment Notice. Claimant testified that she was scheduled to work the day of triage and she contacted the Department regarding the conflict, but received no phone calls back. The Department testified that it received no such calls. It should be noted that Claimant testified that at the time she requested her hearing on April 8, 2014, she also submitted payroll documents showing that she worked on the appointment date and the triage date to the DHS supervisor. Claimant did not have those documents present at the hearing nor did the DHS caseworker present for the hearing recall such documents.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective April 1, 2014, ongoing. The Department found Claimant to be in noncompliance based on her failure to attend the scheduled PATH appointment. However, Claimant provided credible testimony that she contacted the Department ahead of her scheduled orientation to state that she could not attend because of her employment. Good cause includes that the person is working at least 40 hours per week on average and earning at least state minimum wage. BEM 233A, p. 4. It was unclear if Claimant was employed 40 hours; however, Claimant provided credible testimony that she notified that Department of the scheduling conflict and the Department could have rescheduled her appointment. See PATH Appointment Notice,

Exhibit 1. Moreover, Claimant testified that she provided such evidence of the scheduling conflict on the date of hearing request (dated April 8, 2014).

Additionally, Claimant provided credible testimony that she was unable to attend her triage appointment for the same reasons as state above. Nevertheless, based on this information, Claimant provided credible testimony of a valid reason for the noncompliance. BEM 233A, p. 4. The Department will reinstate her FIP benefits effective April 1, 2014, ongoing.

FAP benefits

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that Claimant had failed to comply with employment-related activities without good cause and sanctioned Claimant's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 1. Because the Department did not properly close Claimant's FIP case, it improperly reduced Claimant's FAP benefits by excluding her as a disqualified member of her FAP group. BEM 233B (July 2013), pp. 6-12.

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 did not act in accordance with Department policy when it (i) improperly closed Claimant's FIP benefits effective April 1, 2014; and (ii) improperly reduced Claimant's FAP benefits by excluding her as a disqualified member of her FAP group effective April 1, 2014.

Accordingly, the Department's FAP and FIP 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 FAP and/or FIP sanction/disqualification from her case;
2. Reinstate Claimant's FIP case as of April 1, 2014;
3. Begin recalculating the FAP and FIP budgets for April 1, 2014, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP and FIP benefits she was eligible to receive but did not from April 1, 2014, ongoing; and

5. Notify Claimant in writing of its FIP and FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated April 8, 2014) is **DISMISSED**.

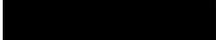


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **5/9/2014**

Date Mailed: **5/9/2014**

EJF / cl

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