

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201324829
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 18, 2013
County: Oakland (#02)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday March 18, 2013. Participants on behalf of Claimant included [REDACTED] and the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Path Coordinator) and [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance (FIP) case effective February 1, 2013 due to non-compliance with the Partnership Accountability Training Hope (PATH) program?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. The Claimant was previously temporarily deferred from participating in the PATH program.
3. On November 14, 2012, the Medical Review Team (MRT) found Claimant not disabled and capable of performing work related activities with limitations. (Exhibit 1)

4. On December 1, 2012, the Department sent a Work Participation Program Appointment Notice instructing the Claimant's to attend the PATH program on December 13, 2012. (Exhibit 2)
5. The Claimant attended the orientation on December 13, 2012, but failed to return to complete the entire process, and was not enrolled.
6. On December 27, 2012, the Department sent a Notice of Noncompliance to the Claimant instructing her to attend a triage on January 4, 2013 to discuss whether good cause existed for the PATH non-compliance. (Exhibit 3)
7. On this same date, the Department sent a Notice of Case Action informing the Claimant that the Department intended to terminate her FIP benefits effective February 1, 2013, based on the PATH non-compliance. (Exhibit 4)
8. The Claimant attended the scheduled appointment and provided three medical documents. She asserted that she is unable to participate in the program for 30 hours a week as required because she had a flare-up on December 14, 2013; and because her 16 year old daughter was returned to the home and needs supervision.
9. The Department determined that no good cause existed for her non-participation because the medical documentation was information previously provided that had been considered in the MRT decision.
10. On January 16, 2013, the Department received the Claimant's written hearing request.

CONCLUSIONS OF LAW

The Department of Human Services policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self sufficiency. It was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Recipients are required to participate in the PATH program or other employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required

to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, p. 6. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A, p. 3.

The Department requires FIP Recipients determined as work ready with limitations by MRT to also participate in PATH. BEM 230A (January 2013), p. 11. The Department is required to serve recipients, who are determined work ready with limitations, when the recipient cannot be served by PATH. The Department specialist is responsible for assigning self-sufficiency activities up to the medically permissible limit of the recipient. BEM 230A, p. 12. When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, send the DHS-518, Assessment For FIP Participation, to the doctor and request supporting medical evidence. If new medical evidence is not provided, do not send the case back to the Medical Review Team. The previous MRT decision stands. BEM 230A, p. 13. The Department specialist must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency while gathering verification or assisting clients with obtaining medical verification. BEM 230A, p. 13. A recipient may disclose a disability and the need for reasonable accommodation at any time. BEM 230A, p. 2.

Department policy requires that good cause determinations must be considered 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, p. 8. If the case workers do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisor to reach an agreement. The DHS supervisor is to make the final determination of good cause. BEM 233A, p. 8. When a client who is determined by Medical Review Team (MRT) to be work ready with limitations becomes noncompliant with PATH, the Department is to review the medical packet including the limitations identified by MRT, if necessary, revise the employment related activity using the limitations identified by MRT to assign medically permissible activities; and then enter the good cause reason as client unfit if the noncooperation was related to the identified limitation or is an additional identified limitation. BEM 233A, p. 8. If an individual becomes noncompliant with his/her FSSP assigned activities by the Department, the Department is then to follow the instructions in processing non-compliance penalties for active FIP recipients. BEM 233A, p. 8.

In this case, the Claimant was previously deferred from participating in the PATH program due to alleged disabilities. On November 9, 2012, MRT determined the Claimant able to work with limitations, and as a result the Department referred Claimant back to the PATH program. She attended the scheduled PATH orientation on December 13, 2012, but did not continue to attend. She testified that she informed the

PATH worker that she had additional medical issues and another unexpected barrier with her daughter that prevented her from participating for the required 30 hours that week. She was told not to return to the PATH program. At the triage meeting held on January 4, 2013, Claimant provided additional medical documentation dated December 14, 2012 and court documents indicating that her 16 year old daughter was recently placed back in the home. She asserted that she could not participate in the PATH program for the initial required 30 hour/wk due to having a medical flare-up with Multiple Sclerosis (MS) and needing to supervise her daughter. The Department determined no good cause existed for non-compliance and proceeded with the intended FIP closure effective February 1, 2013.

The Department is required to service recipients determined work ready with limitation when the recipient cannot be served by the PATH program. Here, Claimant could no longer be serviced by PATH, and thus, should have been served by the Department. Evidence shows the Department did not make a reasonable attempt to service the Claimant by assigning employment related activities up to the medically permissible limit of the Claimant prior to the FIP closure. In addition, Claimant presented additional medical documentation to the Department at triage after the MRT decision. The Department did not send the Assessment for FIP participation (DHS-518) to the doctor and request supporting medical evidence as required per policy. Policy provides that procedures for FIP closure and assessing penalties to be followed after a recipient becomes non-compliant with Department assigned employment related activities when a recipient is served by the Department rather than the PATH program. BEM 233A, p. 8.

Based on the evidence on record, the Department did not establish that it acted in accordance with policy when it closed Claimant's FIP case effective February 1, 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with policy when it terminated Claimant's FIP benefits effective February 1, 2013 for non-compliance with employment related activities.

Accordingly, the Department's decision is hereby, **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.

2. The 3-month FIP sanction for non-compliance is not imposed.
3. The Department shall send the Assessment for FIP Participation form (DHS-518) to Claimant's doctor and request supporting medical evidence.
4. The Department shall transfer the participation requirement from PATH to the Department; and service the Claimant by assigning and monitoring employment related activities in accordance with Department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/25/2013

Date Mailed: 3/25/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

