

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

IN THE MATTER OF:

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Reg. No.: 2013-51718
Issue No.: 1038; 6043
Case No.: ██████████
Hearing Date: July 10, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 held on July 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Specialist.

ISSUES

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits effective June 1, 2013, ongoing, based on Claimant's failure to participate in employment and/or self-sufficiency-related activities without good cause?

Whether the Department properly closed Claimant's Child Development and Care (CDC) program effective June 2, 2013, ongoing?

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 CDC and FIP benefits.
2. On March 20, 2013, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice, which was scheduled on April 1, 2013. Exhibit 1.
3. On April 1, 2013, Claimant did not attend the PATH appointment.

4. On April 8, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 15, 2013. Exhibit 1.
5. On April 15, 2013, Claimant attended the triage appointment and the Department reinstated her FIP benefits and referred her to the PATH program.
6. On April 25, 2013, the Department sent Claimant a PATH Appointment Notice, which was scheduled on May 6, 2013. Exhibit 1.
7. On May 6, 2013, Claimant arrived late at the PATH appointment and did not participate.
8. On May 14, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on May 23, 2013. Exhibit 1.
9. On May 14, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective June 1, 2013, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. Exhibit 2.
10. On May 23, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency-related activities.
11. On May 24, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits would close effective June 2, 2013, ongoing, due to Claimant not being eligible for child day care services. Exhibit 2.
12. On June 5, 2013, Claimant filed a hearing request, protesting the closure of her FIP and CDC benefits. Exhibit 1.

CONCLUSIONS OF LAW

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

FIP benefits

The Family Independence Program (FIP) 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.

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 (January 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 (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. 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. On March 20, 2013, the Department sent Claimant a PATH Appointment Notice, which was scheduled on April 1, 2013. Exhibit 1. On April 1, 2013, the Department testified that Claimant was late for the PATH appointment and did not participate. On April 8, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 15, 2013. Exhibit 1. On April 15, 2013, Claimant attended the triage appointment. The Department testified that Claimant's car broke down on the freeway. Thus, the Department reinstated her FIP benefits and referred her to the PATH program again.

Once Claimant was reinstated for her FIP benefits, on April 25, 2013, the Department sent Claimant a PATH Appointment Notice, which was scheduled on May 6, 2013. Exhibit 1. On May 6, 2013, the Department testified that Claimant arrived late at the PATH appointment and did not participate. The Department testified that Claimant's PATH Appointment Notice states that the orientation begins at 9:00 a.m. See Exhibit 1. Moreover, the PATH Appointment Notice states that the person will not be permitted after 9:15 a.m. See Exhibit 1. The Department testified that Claimant arrived at 9:45 and was thirty minutes late. The Department determined that Claimant did not attend her orientation due to being late. On May 14, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on May 23, 2013. Exhibit 1. On May 14, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective June 1, 2013, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. Exhibit 2. On May 23, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency-related activities.

At the hearing, Claimant testified that she arrived at the orientation on May 6, 2013 at 9:15 a.m. or a little after. Claimant testified that she arrived at that time due to transportation issues with taking her children on the bus. Moreover, Claimant testified that she is attending community college half-time between May 7, 2013 – June 23, 2013. Additionally, Claimant testified that once she arrived at the orientation on May 6, 2013, she waited to speak to the supervisor at the orientation. Claimant testified that

the supervisor attempted to get Claimant to attend orientation the following Monday. However, the PATH Appointment Notice states that Claimant has to attend PATH within 15 days of the April 25, 2013 notice. See Exhibit 1. The following Monday would be after the 15 day requirement. Claimant also testified that the supervisor even attempted to contact Claimant's DHS caseworker with no success. Claimant also testified that she attempted to contact her DHS caseworker with no success.

Based on the foregoing information and evidence, the Department established that Claimant failed to participate in employment-related activities without good cause. First, the Department credibly testified that Claimant arrived late for the orientation on May 6, 2013. Claimant testified that she even arrived at 9:15 a.m. or a little afterwards. The PATH Appointment Notice clearly states that no one is permitted after 9:15 a.m. See Exhibit 1. Second, Claimant already had a prior opportunity to attend the PATH appointment on April 1, 2013. The Department found good cause and reinstated Claimant's FIP benefits. Thus, Claimant had prior knowledge of attendance requirements and expectations of arrival time for the orientation. Claimant failed to attend the PATH appointment timely. Third, Claimant claims that she encountered transportation issues with her children. However, Claimant does have transportation via bus to arrive at her appointment.

Therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case effective June 1, 2013, ongoing. Because this was Claimant's first noncompliance, the Department acted in accordance with Department policy when it closed Claimant's case for a three-month minimum. BEM 233A, pp. 1 and 6.

CDC benefits

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

On May 24, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits would close effective June 2, 2013, ongoing, due to Claimant not being eligible for child day care services. Exhibit 2. Specifically, the Notice of Case Action stated that the parent does not have a need for child day care services due to employment, education or family preservation reasons. See Exhibit 2.

The CDC program may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703 (October 2012), p. 1.

There are four valid CDC need reasons. BEM 703, p. 3. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. BEM 703, p. 3. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of: (1) family preservation; (2) high school completion; (3) an approved activity; or (4) employment. BEM 703, p. 3.

If eligibility for this group is based on the child being part of a FIP applicant-group the only need reason allowed is the one-stop service center/DHS-approved activity need reason. BEM 703, p. 12. Eligibility for this eligibility group ends when the family no longer meets these requirements or the need no longer exists, whichever occurs first. BEM 703, p. 12.

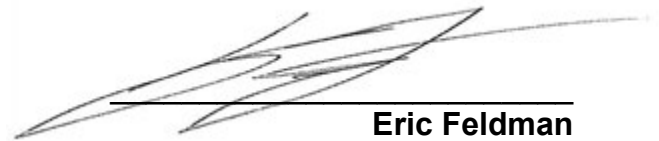
The Department testified that due to Claimant not attending the PATH program and the FIP benefits being closed, she is no longer eligible for CDC benefits.

As stated in the FIP benefit analysis, the Department properly closed Claimant's FIP case for a three-month minimum. Thus, Claimant is not receiving FIP benefits effective June 1, 2013, ongoing. Additionally, Claimant is not employed. Claimant is not eligible for CDC benefits because she is neither employed nor receiving FIP benefits as of June 1, 2013, ongoing. BEM 703, pp. 1-12. Therefore, the Department properly closed Claimant's CDC benefits effective June 2, 2013, ongoing, in accordance with Department policy.

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 (i) properly closed Claimant's FIP case effective June 1, 2013, ongoing and (ii) properly closed Claimant's CDC benefits effective June 2, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



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

Date Signed: July 17, 2013

Date Mailed: July 17, 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 affect the substantial rights of the claimant,
 - 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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