

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

IN THE MATTER OF:

██████████
██
██

Reg No.: 2013-52659
Issue No.: 1000, 1013
Case No.: ██████████
Hearing Date: July 11, 2013
Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, July 11, 2013. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████.

ISSUE

Whether Claimant timely requested a hearing regarding the termination of cash assistance ("FIP") benefits effective April 1, 2013.

Whether the Department properly terminated the Claimant's FIP benefits effective April 1, 2013?

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 a FIP recipient.
2. On May 1, 2013, the Department received a Medical Needs form completed by Claimant's physician which provided that Claimant was unable to work for 4 to 6 months. (Exhibit 1)
3. As a result, the Department temporarily deferred Claimant from participating in work-related activities.

4. On February 1, 2013, the Department sent a Partnership.Accountability.Training.Hope. ("PATH") Appointment Notice to Claimant instructing her to attend PATH orientation February 11, 2013. (Exhibit 2)
5. Claimant did not attend PATH orientation.
6. On February 20, 2013, the Department sent a Notice of Non-compliance to the Claimant instructing her to appear for triage on February 26, 2013. (Exhibit 3)
7. On this same date, the Department sent a Notice of Case Action to the Claimant informing her that her FIP benefits would terminate effective April 1, 2013. (Exhibit 4)
8. Claimant did not participate in the triage resulting in a no good cause determination for PATH non-compliance.
9. Claimant's FAP benefits terminated effective April 1, 2013. (Exhibit 5)
10. On June 5, 2013, the Department received the Claimant's written request for hearing. (Exhibit 6)

CONCLUSIONS OF LAW

Timeliness of Hearing Request

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903 provides in relevant part:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. R 400.903(1)

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual ("BAM") 600, p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In this case, the Department sent a Notice of Case Action to Claimant on February 20, 2013. A hearing request was received by the Department on June 5, 2013, more than 90 days later. During the hearing, Claimant testified credibly that the June 5th hearing request was actually her second request. The first was a hand-written request with Claimant's name, case number, and a statement disputing the FIP closure. This first request was reportedly faxed to the Department from a library (as was the second request). Claimant further testified that she was instructed to submit the hearing request in this manner. Claimant's testimony is found credible. Accordingly, it is found that Claimant timely submitted a hearing request.

FIP closure

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

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, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. A Work Eligible Individual ("WEI") and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Depending on the case situation, penalties include a delay in eligibility at application; case closure for a minimum of three months for the first episode of non-compliance, six months for the second episode; and lifetime closure for the third episode of non-compliance. BEM 233A, pp. 1, 6. As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 1. 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. BEM 233A, pp. 3.

PATH participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A, pp. 8, 9.

In this case, the Department previously deferred Claimant from PATH participation based on a submitted (April 2012) Medical Needs form which indicated Claimant was unable to perform work-related activities for 3 to 6 months. In February 2013, almost 10

months later, the Department sent Claimant a PATH Appointment Notice instructing Claimant to attend orientation. Claimant failed to call or attend resulting in a Notice of Non-compliance and a Notice of Case Action being generated. The Notice of Non-compliance instructed Claimant to attend a triage appointment where a determination could be made as to whether or not good cause existed for the non-compliance. Claimant failed to call or attend the triage appointment. As a result, the Department determined that good cause did not exist therefore, Claimant's FIP benefits terminated effective April 1, 2013, in accordance with policy.

At the hearing, Claimant testified she was disabled and that the appointments slipped her mind and that she didn't think to call in light of her multiple medical appointments. Prior to the closure, Claimant never communicated with the Department regarding her ongoing medical issues, as such, the Department was denied the opportunity to determine whether Claimant could be deferred from work participation. Ultimately, the Department established it acted in accordance with Department policy when it terminated Claimant's FIP based on non-compliance with the PATH program.

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, finds Claimant's request for hearing as timely. It is further found, that the Department's termination of FIP benefits is AFFIRMED.

Accordingly, it is ORDERD:

1. The Department's denial of FIP benefits effective April 1, 2013 is AFFIRMED.
2. The Department shall impose the 3 month FIP sanction in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 15, 2013

Date Mailed: July 15, 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

CMM/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]