

**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.: 2013-51368
Issue No.: 1038
Case No.: ██████████
Hearing Date: July 1, 2013
County: Oakland (2)

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 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Partnership. Accountability. Training. Hope. (PATH) Coordinator.

ISSUE

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?

FINDINGS OF FACT

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

1. In October of 2012, Claimant applied for FIP benefits and he requested to be deferred from the PATH program due to medical reasons.
2. On January 15, 2013, the Medical Review Team (MRT) denied Claimant's deferral. Exhibit 1.
3. On January 22, 2013, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied his deferral and he would have to participate in the PATH program. Exhibit 1.

4. In February of 2013, Claimant provided additional medical documentation to request a deferral from the PATH program. Exhibit 1.
5. On an unspecified date, the Department determined that Claimant provided the same medical information in February of 2013. See Exhibit 1.
6. On April 12, 2013, the Department sent Claimant a Quick Note notifying him that the MRT found him work ready. Exhibit 1.
7. On April 12, 2013, the Department sent Claimant a PATH Appointment Notice for him to attend an appointment on April 23, 2013. Exhibit 1.
8. Claimant failed to participate in employment and/or self-sufficiency related activities without good cause.
9. On April 30, 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 1.
10. On April 30, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on May 7, 2013. Exhibit 1.
11. On May 7, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activity. Exhibit 1.
12. On May 29, 2013, Claimant requested a hearing disputing the FIP benefit termination. 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).

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 October of 2012, Claimant applied for FIP benefits and he requested to be deferred from the PATH program due to medical reasons. On January 15, 2013, the MRT denied Claimant's deferral. Exhibit 1. On January 22, 2013, the Department sent Claimant a Quick Note notifying Claimant that the MRT denied his deferral and he would have to participate in the PATH program. Exhibit 1. In February of 2013, Claimant provided additional medical documentation to request a deferral from the PATH program. Exhibit 1. On an unspecified date, the Department determined that Claimant provided the same medical information in February of 2013. See Exhibit 1. On April 12, 2013, the Department sent Claimant a Quick Note notifying him that the MRT found him work ready. Exhibit 1. On April 12, 2013, the Department sent Claimant a PATH Appointment Notice for him to attend an appointment on April 23, 2013. Exhibit 1. Claimant failed to participate in employment and/or self-sufficiency related activities without good cause. On April 30, 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 1. On April 30, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on May 7, 2013. Exhibit 1. On May 7, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activity. Exhibit 1.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A, p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 9.

Determination of a long-term disability is a three step process. BEM 230A, p. 10. The client must fully cooperate with both steps. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 10. Step three involves the referral to MRT. See BEM 230A, pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the

determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, the Department gathers the new verification and sends for an updated MRT decision. BEM 230A, pp. 12-13.

At the hearing, the Department testified that the medical information Claimant provided in February of 2013 was the same information he had provided previously. Moreover, the Department testified that Claimant provided a letter from his doctor stating that he should not return to work until March of 2013. See Exhibit 1. Claimant also provided to the Department a Medical Needs – Jet document, which indicated that Claimant can work, but with limitations. See Exhibit 1. The Medical Needs- Jet document did indicate that the limitation is expected to last more than 90 days. See Exhibit 1. The evidence infers that Claimant can work, however, with limitations. Thus, the Department determined that he can participate in the PATH program and referred him in April of 2013. See Exhibit 1.

Claimant testified that his disability arises from an auto-accident. Claimant testified that he did provide new medical evidence to the Department after the January 15, 2013 MRT decision. Claimant testified that the new medical information that he provided consisted of his shoulder surgery on February 6, 2013 and continuing neck medical problems. Thus, Claimant was requesting deferral from the PATH program due to this new medical evidence that Claimant provided to the Department as well as his continuing neck medical problems. It should be noted that the Department did receive the medical documentation regarding the shoulder surgery in February of 2013, and the Department had that information available to it at the time of triage.

A review of the MRT Assessment for JET Participation Project received by the Department on January 15, 2013 and the Medical Needs – JET document received by the Department on February 27, 2013, does indicate some work limitation differences. See Exhibit 1. Additionally, Claimant is alleging that he should be deferred due to his medical disability based on the new medical information that he provided to the Department in February of 2013. See Exhibit 1.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective June 1, 2013, ongoing. Claimant stated and provided evidence to the Department in February of 2013 that he has new medical evidence and/or a new condition resulting in disability greater than 90 days. See Exhibit 1. Claimant's surgery post-MRT decision indicates new medical evidence that he did submit to the Department. See Exhibit 1. Claimant's testimony and evidence provided established that the Department should have forwarded this new information for an updated MRT decision. BEM 230A, pp. 12-13. Therefore, the Department did not act in

accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, pp. 1 and 6.

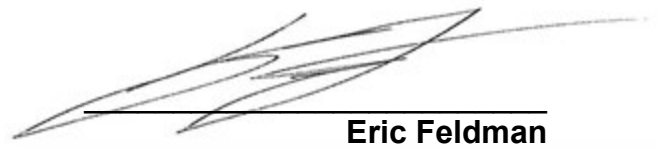
DECISION AND ORDER

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 properly when it closed Claimant's FIP case effective June 1, 2013, ongoing.

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

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 remove Claimant's first FIP sanction from his case;
2. The Department shall gather the new medical verifications and send it to MRT for an updated decision;
3. The Department shall reinstate Claimant's FIP case as of June 1, 2013, ongoing;
4. The Department shall begin recalculating the FIP budget for June 1, 2013, ongoing, in accordance with Department policy;
5. The Department shall supplement for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for June 1, 2013, ongoing, in accordance with department policy; and
6. The Department shall notify Claimant of the FIP determination in accordance with Department policy.



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

Date Signed: July 9, 2013

Date Mailed: July 9, 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

EJF/cl

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