

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

IN THE MATTER OF:

██████████  
██████████████████  
██████████████████

Reg.No. 2013 56094  
Issue No. 1038  
Case No. ██████████  
Hearing Date: July 31, 2013  
Wayne County DHS (41)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**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 held on July 31, 2013. The Claimant appeared and testified. ██████████, FIS, appeared on behalf of the Department. ██████████ Circle Work appeared as a witness on behalf of the Department.

**ISSUE**

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for noncompliance with work-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. The Claimant was assigned to attend the Work First program and was required to participate.
2. The Department attempted to verify continuing participation and re-engaged the Claimant in a meeting on June 18, 2013. The re-engagement required the Claimant to return a medical needs form, and proof of ending of employment and a pay stub..
3. A Notice of Non Compliance was sent to the Claimant on June 21, 2013 scheduling a triage on June 27, 2013.
4. A triage was held and the Department found no good cause. At the triage it was determined that the Claimant had not met the terms of the re-engagement with

the PATH program established at the June 18, 2013 meeting and that the Claimant had not provided a pay stub establishing employment. The Claimant also did not provide a medical needs form as requested.

5. The Claimant did not report the ending of her work assignment.
6. The Department sent a Notice of Case Action to the Claimant on June 21, 2013 which imposed a sanction closing the Claimant's FIP case for 3 months (first sanction) effective August 1, 2013 due to non-compliance without good cause to participate in Work First activities as required.
7. The Claimant requested a hearing on July 1, 2013 protesting the closure of her FIP cash assistance and imposition of a three-month closure sanction.

### **CONCLUSIONS OF LAW**

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") as a condition of eligibility must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the PATH or other employment service provider. BEM 233A 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 Failure to comply without good cause results in FIP closure. BEM 233A The first occurrence of non-compliance results in a 3 month FIP closure. BEM 233A The third occurrence results in a 12 month sanction.

PATH participants will not be terminated from a PATH program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A 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 In addition, a triage must be held within the negative action period. BEM 233A A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A. However, a failure to participate can be

overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the Claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, a failure to participate can be overcome if the client has good cause. The penalty for noncompliance is FIP closure.

In this case, the Claimant was deemed in noncompliance with work first PATH requirements for several reasons, she had not been attending the program and did not provide proof of employment or ending of employment and did not provide a medical needs form, which she advised the Department she would provide. The Claimant was given an opportunity to re-engage with the PATH program on June 18, 2013 when she met with the PATH program after failing to participate in the PATH program. The Claimant did not advise the program that her work had ended and had to be re-engaged by the program. The Claimant testified at the hearing that she did not attend due to an auto accident which she was involved in, also because of her brother's funeral and that her doctor would not complete a medical needs form. The Claimant did not provide the medical needs form, provided no proof of an auto accident and did not provide proof of her brother's funeral at the triage or at the hearing. The Claimant did not contact the program about her circumstances.

BEM 233A also provides:

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

Failing or refusing to:

Appear and participate with the work participation program or other employment service provider.

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

Participate in employment and/or self-sufficiency-related activities.

Participate in required activity.

In this case the uncontroverted testimony of both parties indicates the Claimant stopped her employment in May 2013 and did not report back to the PATH program. At the

beginning of the PATH program orientation, participants are given the rules that must be followed including reporting when activities end as well as re-engaging with the program. Participants are required to verify employment and report ending of employment so that they can be returned to the program and continue to receive FIP benefits. In this case the list of good cause reasons was reviewed by the undersigned and it was determined based upon the evidence presented at the hearing and the testimony of the parties, that the Claimant did not demonstrate or meet any of the good cause reasons.

Good Cause includes the following:

**Employed 40 Hours**

The person is working at least 40 hours per week on average and earning at least state minimum wage.

**Client Unfit**

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

**Illness or Injury**

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

**Reasonable Accommodation**

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

**No Child Care**

The client requested child care services from DHS, the work participation program, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

**Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.

**Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.

**Suitable provider.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/ licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.

**Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS.

### **No Transportation**

The client requested transportation services from DHS, the work participation program, or other employment services provider prior to case

closure and reasonably priced transportation is not available to the client.

### **Illegal Activities**

The employment involves illegal activities.

### **Discrimination**

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs.

### **Unplanned Event or Factor**

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

Domestic violence.  
Health or safety risk.  
Religion.  
Homelessness.  
Jail.  
Hospitalization.

**Comparable Work**

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

**Long Commute**

Total commuting time exceeds:

Two hours per day, not including time to and from child care facilities **or**

**Three hours per day, including time to and from child care facilities.**

The Department's evidence demonstrated that it had sufficient non-participation with PATH requirements by the Claimant to determine both noncompliance by the Claimant for failing to participate and re-engage after her work assignment ended and refusal to meet or comply with the re-engagement requirements. Thus it must be found that the Department correctly closed the Claimant's FIP cash assistance case and imposed a three-month sanction for noncompliance with work-related activities. It is therefore determined that the Department properly applied and followed Department policy in taking its action in this case.

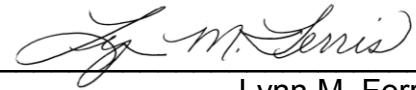
Based of the above Findings of Fact and Conclusions of Law the testimony of witnesses and the documentary evidence received, the Department has demonstrated that it correctly followed and applied Department policy in closing and sanctioning the Claimant's FIP case for noncompliance without good cause and imposing a three-month sanction. BEM 233A.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly closed the Claimant's cash assistance FIP case

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and correctly imposed a three-month sanction closing the Claimant's case for noncompliance with work-related activities. Accordingly, the Department's determination is AFFIRMED.



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Lynn M. Ferris  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: August 8, 2013

Date Mailed: August 8, 2013

LMF/cl

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

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Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

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