

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201358464  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: August 15, 2013  
County: Wayne (41)

**ADMINISTRATIVE LAW JUDGE:**

**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 January 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department of Human Services (DHS) correctly impose a negative case action and six month sanction upon the claimant for non-compliance with work-related activities?

**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 in Wayne County.
- (2) On July 11, 2013, claimant was referred to triage by PATH officials for failing to attend and meet program requirements for the month of June 2013.
- (3) On July 11, 2013, claimant was sent a DHS-2444, Notice of Non-Compliance.
- (4) The notice scheduled a triage for July 18, 2013.
- (5) Claimant did not attend triage.

- (6) Claimant's FIP case was closed in a response to the missed triage appointment.
- (7) No determination of good cause was made.
- (8) Claimant's case was sanctioned and closed on August 1, 2013.
- (9) This is claimant's second alleged incident of noncompliance.
- (10) On July 16, 2013, claimant filed a request for hearing, alleging that they disagreed with the actions of the Department of Human Services.

### **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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

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.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Partnership, Accountability, Training and Hope (PATH) program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “noncompliance”. BEM 233A defines noncompliance as failing or refusing to, without good cause:

...Appear and participate with PATH or other employment service provider...” BEM 233A p. 1.

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, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, PATH participants cannot be terminated from a PATH program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. **Good cause must be considered, even if the client does not attend.** BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to PATH, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

In the current case, the Department’s procedures towards overcoming claimant’s non-participation were inadequate. While there may have been questions as to whether the claimant could have attended the triage, or whether the claimant even had good cause, or whether the claimant was noncompliant, these questions are, ultimately, irrelevant.

The only relevant fact is that BEM 233A requires the Department to hold a triage and make a good cause determination, even if the claimant does not show up for the triage. The Department has presented no evidence that a good cause determination was ever made. Department Exhibit 1, the Hearing Summary, states that the claimant did not attend the triage as the reason for sanction. Furthermore, the Department representative testified that claimant was given a finding of no good cause for failing to attend the triage. No mention of an independent good cause determination is made. Therefore, as no independent evidence has been offered to show that a good cause determination was made, beyond noting that claimant did not show up for the triage; and that all evidence in the file shows that the reason for the noncompliance assessment was because claimant did not show up for the triage. The undersigned must hold that the Department did not make an individual assessment. This is plain error.

DHS is required to hold the triage without the client, and discuss and consider all factors that are known about the client that may have contributed to good cause. A good cause determination must then be made, using these known factors. BEM 233A, p. 7. The available evidence shows that this determination was not made, thus placing the Department in error.

However, there are questions as to whether the claimant should have been scheduled for PATH in the first place. Claimant alleged disabilities and requested a medical determination to determine whether she was fit for the PATH program, per policy found in BEM 230A. The Department requested several medical documents, but refused to evaluate claimant for a PATH deferral after claimant did not return a DHS-49 or a DHS-54 form. However, the medical verification checklist submitted by the Department as evidence of failing to return medical forms fails to request these documents. While the Department alleged that these documents were later sent, there is no presented evidence that these documents were ever officially requested, nor is there any evidence that shows that the claimant was warned that her request for a deferral would not be evaluated if she failed to return these forms.

As such, the undersigned must hold that the Department was in error when it refused to evaluate claimant for a medical deferral for failing to return forms, when these forms were not requested. Claimant must be evaluated for a medical deferral, as she has specifically claimed disability, as per policy found in BEM 230A.

This Administrative Law Judge must therefore conclude that DHS was in error in its triage and post-triage procedures; however, as claimant was never fully evaluated for a medical deferral, claimant should never have been sent to the PATH program, and thus could never have been noncompliant with work related activities.

Thus, while the Department's triage procedures were incorrect, it stands to reason that the claimant should never have been sent to triage in the first place, as claimant should not have been scheduled for the PATH program until a proper decision into whether claimant was eligible for a medical deferral was issued.

**DECISION AND ORDER**

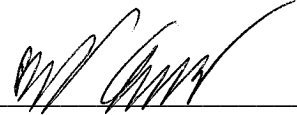
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when it .  
 did not act properly when finding the claimant noncompliant with work related activities.

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 is ORDERED to remove the current sanction and penalty on claimant's case and reopen claimant's FIP case retroactive to the date of negative action.
2. The Department is FURTHER ordered to initiate an investigation into whether claimant is eligible for a medical deferral from PATH and other work related activities.



Robert J. Chavez  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 8/21/2013

Date Mailed: 8/21/2013

**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:

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

RJC/hw

cc:

