

**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.: 2013-59494
Issue No.: 1038
Case No.: ██████████
Hearing Date: August 21, 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 August 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Partnership. Accountability. Training. Hope. (PATH) Specialist.

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. Claimant was an ongoing recipient of FIP benefits.
2. On May 22, 2013, the Department sent Claimant a PATH Appointment Notice, which scheduled Claimant for an orientation on June 3, 2013. Exhibit 1.
3. On June 10, 2013, the Department mailed Claimant a Notice of Noncompliance, which scheduled Claimant for a triage appointment on June 20, 2013. Exhibit 1.
4. On June 10, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2013, based on a failure to

participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.

5. On June 20, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
6. On July 3, 2013, Claimant requested a hearing, disputing the FIP benefit termination. Exhibit 1.
7. In July 2013, Claimant reapplied for FIP benefits.
8. On July 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective August 1, 2013 ongoing. Exhibit 1.
9. On July 22, 2013, Claimant requested another hearing, disputing the same FIP benefit termination as previously requested in the July 3, 2013 hearing request. 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.

As a preliminary matter, Claimant submitted two hearing requests, on July 3, and July 22, 2013. See Exhibit 1. Both hearing requests addressed the same issue, which was disputing her FIP benefit termination. See Exhibit 1. Moreover, Claimant testified that both hearing requests were disputing her FIP benefit termination. Based on this information, this hearing decision will address both requests in the same decision.

In this case, Claimant was an ongoing recipient of FIP benefits. On May 22, 2013, the Department sent Claimant a PATH Appointment Notice, which scheduled Claimant for an orientation on June 3, 2013. Exhibit 1. The Department testified that Claimant never attended her scheduled orientation. Thus, on June 10, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. Also, on June 10, 2013, the Department mailed Claimant a Notice of Noncompliance, which scheduled Claimant for a triage

appointment on June 20, 2013. Exhibit 1. On June 20, 2013, Claimant failed to attend 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 did attend the PATH orientation. Claimant testified that she looked online and saw the PATH orientation scheduling her to attend on June 3, 2013. Claimant testified that she did not receive the PATH Appointment Notice in the mail. Claimant testified that she went to the PATH orientation and sat in the room waiting for the instructor. However, Claimant testified that the instructor did not come. Claimant testified that she did have school and exams that same day. Thus, Claimant testified that she went to a PATH caseworker and stated she had exams and had to go to school. Claimant testified that the PATH caseworker stated that they would fax a letter to the Department stating that Claimant did attend her orientation. Claimant did provide evidence at the hearing that she did have classes on June 3, 2013. See Exhibit A.

The Department testified that Claimant did come into the DHS office on July 3, 2013. The Department testified that Claimant did state the same information as stated above. However, the Department testified that it never received any fax from the PATH caseworker. Based on this information, the Department testified that it did not find any good cause because it did not have any written proof confirming Claimant's testimony. The Department also testified they did not discuss why Claimant missed her triage on July 3, 2013.

Other changes must be reported within 10 days after the client is aware of them. BAM 105 (March 2013), p. 7. This includes address changes. BAM 105, p. 7.

During the hearing, Claimant testified that she did not attend the triage because she did not receive the Notice of Noncompliance dated June 10, 2013. Claimant testified that the address located on the Notice of Noncompliance was her previous mailing address. Claimant testified that she is homeless and that she stays in a shelter home. The Department did confirm that Claimant reported on May 1, 2013 that she lives in a shelter home. Claimant testified, though, that she purchased a P.O. Box to have her mail sent there. Claimant testified that she reported both via mail and online her address change before the Notice of Noncompliance letter was sent. Claimant testified that she did not look online to see if a Notice of Noncompliance letter was sent because she assumed that she was not in noncompliance due to attending the PATH orientation on June 3, 2013.

The Department provided as evidence a Redetermination that Claimant submitted on May 29, 2013. See Exhibit 1. The Redetermination indicated that Claimant reported that her address had not changed. See Exhibit 1. Moreover, the Department presented as evidence Claimant's Household Address – Summary. See Exhibit 1. This document indicated that Claimant's P.O. Box was updated on July 9, 2013. See Exhibit 1. This date is after the Notice of Noncompliance was sent. See Exhibit 1. Based on this

information and evidence, the Department properly sent the Notice of Noncompliance to the appropriate address.

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. BEM 233A, p. 3. Good cause can include an unplanned event or factor. BEM 233A, p. 5. Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 5. Unplanned events or factors include homelessness. BEM 233A, p. 5.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective July 1, 2013, ongoing. First, Claimant credibly testified that she attended the PATH orientation on June 3, 2013. The Department did not have the PATH caseworker to rebut Claimant's testimony that she attended the orientation. Moreover, Claimant provided credible evidence that she did have school on June 3, 2013. See Exhibit A. Second, the Department provided credible evidence that it obtained the change of address request after the Notice of Noncompliance letter was sent. See Exhibit 1. However, Claimant also credibly testified and provided evidence that she is homeless and living in an emergency shelter home. See Exhibit A. The Department confirmed that Claimant did provide this documentation. Nevertheless, it is evident that Claimant has difficulty receiving her mail because she is homeless. Moreover, it appears even more difficult for Claimant to participate in the PATH program due to her homelessness. Thus, the Department will be ordered to conduct a new triage with the Claimant to jointly discuss noncompliance and good cause reasons. See BEM 233A, pp. 7-8.

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 improperly closed Claimant's FIP benefits effective July 1, 2013, ongoing, in accordance with Department policy.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and 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. Remove Claimant's second FIP sanction from her case;
2. Begin reinstating Claimant's FIP case effective July 1, 2013, ongoing;
3. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from July 1, 2013, ongoing;
4. Begin notifying Claimant in writing of a new triage meeting to determine if she had a good cause for the noncompliance, in accordance with Department policy; and
5. Begin notifying Claimant in writing of its FIP decision in accordance with Department policy.



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

Date Signed: August 28, 2013

Date Mailed: August 28, 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

EJF/cl

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