

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

IN THE MATTER OF:

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

Reg. No.: 2013-59762
Issue No.: 1038
Case No.: ██████████
Hearing Date: August 22, 2013
County: Wayne (57)

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 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager, and ██████████ nney, Family Independence 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 January 25, 2013, Claimant was deferred from the Partnership. Accountability. Training. Hope. (PATH) program. See Exhibit 1.
3. On June 1, 2013, the Department sent Claimant a PATH Appointment Notice for her to attend her scheduled appointment on June 14, 2013. Exhibit 1.

4. On June 14, 2013, Claimant went to the PATH office and was notified to attend her orientation on June 17, 2013. Exhibit 1.
5. On June 17, 2013, Claimant never attended her scheduled orientation. Exhibit 1.
6. On June 18, 2013, Claimant came into the PATH office and was notified to attend her second opportunity for an orientation on June 24, 2013. Exhibit 1.
7. On June 24, 2013, Claimant never attended her scheduled orientation. Exhibit 1.
8. On July 10, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 16, 2013. Exhibit 1.
9. On July 10, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
10. On July 16, 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. Exhibit 1.
11. On July 19, 2013, Claimant filed a hearing request, protesting the Department's action. 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.

In this case, Claimant was an ongoing recipient of FIP benefits. On January 25, 2013, Claimant was deferred from the PATH program. See Exhibit 1. Claimant did not attend her scheduled appointments. On July 10, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 16, 2013. Exhibit 1. On July 10, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. On July 16, 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. Exhibit 1.

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 the present case, on June 1, 2013, the Department sent Claimant a PATH Appointment Notice for her to attend her scheduled appointment on June 14, 2013. Exhibit 1. On June 14, 2013, Claimant went to the PATH program with documents from the Social Security Administration because she was trying to file for disability benefits. See Case Notes, Exhibit 1. The case notes also indicated that Claimant was told to report to her orientation on June 17, 2013. See Exhibit 1. On June 17, 2013, the case notes indicate that Claimant failed to attend her orientation and that the PATH caseworker left a voicemail for Claimant to attend another scheduled orientation on June 24, 2013. See Exhibit 1. On June 18, 2013, the case notes then indicate that Claimant came into the PATH office with additional medical documents and was notified to attend her orientation on June 24, 2013. See Exhibit 1. On June 24, 2013, the case notes indicated that Claimant did not report to her second opportunity for the scheduled orientation. See Exhibit 1. Due to Claimant failing to attend her PATH orientation, the Department sent Claimant a Notice of Noncompliance. The Department testified that Claimant failed to attend her triage and found no good cause for the noncompliance. Thus, Claimant's FIP benefits were sanctioned.

At the hearing, Claimant testified that she never received a PATH Appointment Notice to attend her orientation on June 24, 2013. Claimant also admitted, though, it was her mistake for not notifying the Department that she was unable to attend her second scheduled orientation on June 24, 2013. Claimant also testified that she contacted the Department on July 15, 2013 requesting that the triage be conducted via telephone. Claimant testified that she left a voicemail and discovered that her DHS caseworker was not present for couple of days. The Department caseworker did confirm that he was absent for July 15, 2013. It should also be noted that Claimant testified that she did claim to be disabled to the Department in January 2013. Claimant testified that she was provided a Medical Needs form for her physician to complete. Claimant ultimately

testified that she received a medical packet from the Department and submitted it to the Department at the end of 2012.

At intake, redetermination or any time 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 Medical Review Team (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.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective August 1, 2013, ongoing. First, Claimant credibly testified that she never received the PATH Appointment Notice. It should be noted that the PATH Appointment Notice indicates that Claimant's scheduled orientation is June 14, 2013. See Exhibit 1. However, the case notes indicate that Claimant did come to the PATH office on June 14, 2013. See Exhibit 1. Moreover, it appears that June 14, 2013 was not a scheduled orientation, but Claimant's intake appointment. See Exhibit 1. The case notes indicate that Claimant's first orientation is June 17, 2013. See Exhibit 1. Based on this information, there is a clear inconsistency of what was Claimant's actual orientation date. Moreover, Claimant did arrive to the PATH orientation on June 14, 2013 as required by the PATH Appointment Notice. See Exhibit 1.

Second, Claimant credibly testified that she contacted the Department to have her triage scheduled via telephone. The Department caseworker did confirm that he was out of the office on the day she called.

Third, the case notes indicate that Claimant brought documents from the Social Security Administration because she is attempting to file for disability. See Exhibit 1. BEM 230A states 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. This is clearly an indication that Claimant is claiming to be disabled because she is trying to file for disability benefits. Claimant should have been deferred from the PATH program pending verification of her disability.

In summary, the Department improperly closed Claimant's FIP benefits effective August 1, 2013, ongoing. Claimant went to the PATH office on June 14, 2013 as required by the PATH Appointment Notice. Moreover, on June 14, 2013, Claimant was claiming a disability and should have been provided with a medical packet to determine if she can be deferred from the PATH program by MRT.


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 August 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. Begin removing Claimant's first FIP sanction from her case;
2. Initiate reinstatement of Claimant's FIP case as of August 1, 2013, ongoing;
3. Begin recalculating the FIP budget for August 1, 2013, ongoing, in accordance with Department policy;
4. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from August 1, 2013, ongoing; 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]
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