

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

IN THE MATTER OF:



Reg. No.: 2013-69915
Issue Nos.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: Pathway to Potential

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) benefits for failure to cooperate with employment-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 and FAP benefits.
2. In connection with her FIP eligibility, Claimant was required to participate in the PATH program.
3. On August 8, 2013, the Department sent Claimant a (i) Notice of Noncompliance notifying her that she had not complied with the PATH program and scheduling a triage on August 12, 2013, and a (ii) Notice of Case Action notifying her that, due to her failure to comply with employment-related activities without good cause,

effective September 1, 2013, it would close her FIP case for a three-month minimum and reduce her FAP benefits by removing her as a member of her FAP group.

4. Claimant spoke to her worker after August 8, 2013, and informed him that she had not participated in the PATH program because she had a broken leg.
5. On August 12, 2013, the Department sent Claimant a Medical Verification Checklist requesting that Claimant (i) complete and submit the DHS-49F Medical Social Questionnaire, the DHS-49G Activities of Daily Living, and the second page of the DHS-1555 Authorization to Release Protected Health Information, (ii) bring the DHS-1552 to the Social Security Administration for completion, and (iii) have her doctor complete the DHS-49 Medical Examination Report and the DHS-54E. The documents were due by August 22, 2013.
6. On August 8, 2013, the Department sent Claimant a Verification Checklist (VCL) that rescheduled the triage date to August 14, 2013.
7. Claimant did not participate in the August 14, 2013 triage.
8. The Department held the triage and concluded that Claimant had failed to verify good cause for her noncompliance with work participation program activities.
9. Claimant's FIP case was sanctioned with a three-month closure, and Claimant was removed as a qualified member of her FAP group resulting in a decrease in her FAP benefits.
10. On September 19, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The

Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

At the hearing, Claimant acknowledged that she had not been participating in PATH activities when she received the August 8, 2013, Notice of Noncompliance and Notice of Case Action, but she explained that she had suffered a broken leg and had advised her PATH worker in June 2013 that she could not participate in the PATH program. The Department testified that it was not aware that Claimant was alleging a medical reason for her inability to cooperate with PATH obligations until Claimant contacted her Department worker after she received a Notice of Case Action, but before the August 14, 2013, triage was held. At that time, the worker notified Claimant that her triage date and location as indicated on the Notice of Noncompliance would change and she would receive written notice of the rescheduled triage.

A VCL dated August 8, 2013, was sent to Claimant advising her that the triage was rescheduled on August 14, 2013. Claimant did not attend. The Department testified that it held the triage on August 14, 2013, and concluded that Claimant did not have good cause for her noncompliance. Claimant credibly testified that she did not receive the notice until August 14, 2013, at which time she contacted her worker to let him know that she could not participate because she had not arranged for transportation to get to the triage, but no one responded to her call. The Department did not recall receiving the call but could not deny that Claimant called. Because Claimant established good cause for her failure to attend the triage, her good cause explanation for failing to attend PATH was considered at the hearing.

At the triage, the Department must consider whether the client had good cause for her noncompliance. BEM 233A (January 2013), p. 7. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors beyond the control of the noncompliant person and must be verified and documented. BEM 233A, p. 3. In determining good cause, the Department must consider the best information available during the triage and prior to the negative action date, including any verified information already on file with the Department or the work participation program. BEM 233A, pp. 7-8.

In this case, Claimant contended that she had advised her PATH worker that she had broken her leg and would be unable to participate in the PATH program. The MIS Notes, the notes entered by the PATH program worker, reflect that Claimant was injured and walking with crutches on July 10, 2013. Although Claimant testified that she provided documentation to her PATH worker from her doctor indicating that she could not stand on her feet, the PATH worker's notes indicate that several calls were left with Claimant asking her to bring in a medical form from her doctor. At the hearing, Claimant testified that she did not keep a copy of the note she provided her PATH worker. In light of the PATH worker's comments in her notes and Claimant's failure to provide a copy of the note she allegedly provided, the evidence supports a finding that there was no medical verification in the file for the Department to rely on for a good cause finding.

However, in response to Claimant's allegation that she could not participate in PATH because of her medical condition, on August 12, 2013, the Department, in accordance with Department policy, sent Claimant a Medical Determination VCL requesting medical documentation necessary to establish a PATH deferral. See BEM 230A (January 2013), pp. 6, 9. The documents were due on August 22, 2013. The Department's evidence shows that its triage finding of noncompliance was pended to take into consideration whether Claimant's response to the Medical Determination VCL established good cause.

The Department testified that it did not receive Claimant's response to the VCL until August 27, 2013, after the August 22, 2013, due date, and that her response was inadequate because she provided only those documents she was required to complete but no medical documents. Claimant testified that she informed the Department that she would be delayed in providing the documents because she had to get the forms completed by her doctor. She added that, when she went to her doctor, she was informed that there would be a \$25 fee to have the document completed. Claimant further testified that she informed her worker of the fee. The worker did not recall, but could not refute, Claimant's testimony.

When a client provides a completed DHS-49F, Medical Social Questionnaire, the optional DHS-49G, Activities of Daily Living, and a signed DHS-1555, Authorization to Release Protected Health Information, in response to a Medical Determination VCL, the Department specialist must forward these documents to the Medical Review Team. BAM 815 (July 2013), pp. 3-5. The completion of medical documents is the responsibility of the physician. BAM 815, p. 5. If a client is alleging a disability, the Department must authorize payment for a medical report, if needed. BEM 230A, p. 19; BAM 815 (July 2013), p. 7.

In this case, Claimant established that she was unable to provide a copy of her medical documentation because of the fee and that she reported her delay and the fee to the Department. Under these facts, the Department did not act in accordance with Department policy when it failed to continue processing Claimant's eligibility for a PATH deferral.

Reduction of FAP Benefits

Because Claimant's FIP case was improperly closed, the Department did not act in accordance with Department policy when it reduced Claimant's FAP benefits by designating her as a disqualified member of her FAP group and removing her from the FAP group. See BEM 230B (January 2013), p 4.


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP case and reduced her FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FIP case effective September 1, 2013;
2. Remove any FIP and/or FAP employment-related noncompliance sanction applied to Claimant's record on or about September 1, 2013;
3. Recalculate Claimant's FAP benefits for September 1, 2013, ongoing to include Claimant as a qualified member of her FAP group; and
4. Issue supplements to Claimant for any FAP and FIP benefits Claimant was eligible to receive but did not from September 1, 2013, ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 28, 2013

Date Mailed: October 29, 2013

NOTICE OF APPEAL: 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.

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).

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.

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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

ACE/pf

cc:

