

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201356131  
Issue No.: [REDACTED]  
Case No.: [REDACTED]  
Hearing Date: August 7, 2013  
County: Newaygo

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**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 7, 2013. Claimant and her Community Mental Health case manager, [REDACTED], appeared and testified. The Department was represented by [REDACTED] and PATH worker [REDACTED].

**ISSUE**

Did the Department properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities?

Did the Department properly sanction Claimant's Food Assistance Program (FAP) for failure to participate in employment and/or self-sufficiency 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 an ongoing recipient of Family Independence Program (FIP) benefits.
2. On May 13, 2013, the Medical Review Team denied Claimant a deferral from PATH participation. The Medical Review Team determined that Claimant was work ready with limitations.
3. On May 15, 2013, Claimant was sent a Partnership, Accountability, Training, Hope (PATH) Appointment Notice (DHS-4785 form). The notice stated that

Claimant was required to attend Partnership, Accountability, Training, Hope (PATH) no later than May 30, 2013.

4. On May 28, 2013, Claimant requested an extension to attend PATH due to a reported illness. Claimant's deadline to attend was changed to June 3, 2013.
5. On June 7, 2013, Claimant had not attended PATH. Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a triage meeting for June 19, 2013. Claimant was also sent a Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) and Food Assistance Program (FAP) would be sanctioned.
6. On June 19, 2013, Claimant attended the scheduled meeting. Claimant asserted she was ill but provided no documentation or verification. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities.
7. On June 28, 2013, Claimant submitted a request for hearing.

### **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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. 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 1997 AACRS R 400.3001-3015.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

#### **BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED REQUIREMENTS: FIP**

##### **DEPARTMENT PHILOSOPHY FIP**

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

#### **DEPARTMENT POLICY FIP**

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

#### **NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED ACTIVITIES**

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:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- Failing or refusing to:
  - Appear and participate with Partnership, Accountability, Training, Hope (PATH) or other employment service provider.
  - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
  - Develop a Family Self-Sufficiency Plan (FSSP).
  - Comply with activities assigned on the FSSP.

- 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.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

### **GOOD CAUSE FOR NONCOMPLIANCE**

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

### **BEM 233B FAILURE TO MEET EMPLOYMENT REQUIREMENTS: FAP**

#### **DEPARTMENT PHILOSOPHY**

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment.

There are consequences for a client who refuses to participate in FIP/RCA employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

### **DEPARTMENT POLICY**

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance; see BEM 233A.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is active RCA and becomes noncompliant with a RCA program requirement.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP.

### **PROCESS FOR FIP/RCA ASSOCIATED NONCOMPLIANCE**

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP.

Claimant does not dispute her failure to attend PATH. Claimant asserts she had good cause due to being ill. Claimant testified that on May 28, 2013, her first scheduled attendance; she was having problems caused by her Irritable Bowel Syndrome (IBS). Claimant testified she did not get a medical note because she did not go to the Doctor. Claimant did submit a letter from PA-C Poehl of Family Health Care in White Cloud. The letter is dated June 21, 2013, and states Claimant has been seen there for 12 years for issues with morbid obesity, chronic back pain, chronic bronchitis, and irritable bowel.

Claimant testified that on June 3, 2013, she was ill with the flu. Claimant testified that she had diarrhea and was vomiting; and her son was also sick with the flu. Once again Claimant testified that she did not get a medical note because she did not go to the Doctor. [REDACTED] testified that Claimant had an appointment with her [REDACTED] on June 3, 2013, and that she [REDACTED] was ill that day and went to Claimant's residence to cancel the appointment. [REDACTED] testified that Claimant was ill also and had a red faced and looked awful. Claimant also submitted a June 7, 2013, letter from [REDACTED] secretary, [REDACTED] stating Claimant called in on 6/3 to excuse her son from school due to the flu.

Department policy (cited above) requires that good cause claims be verified and documented. Good cause for illness or injury requires that the client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. As a general rule of thumb, the Department looks for verifications of medical issues to be from a Doctor. For many types of medical verification that is a prudent measure. Department of Human Services Bridges Eligibility Manual (BEM) 230A (2013) requires medical verification for medical deferrals from participation. The medical deferrals being considered in BEM 230A are for periods of more than a few days. Nothing was found in policy requiring verification and documentation of short term illness or injury absences. Because Department policy does not specifically require a Doctor's note for good cause the documentation and verification provided by Claimant will be considered and analyzed in deciding this case.

The first absence of May 28, 2013, has already been excused by the Department. The letter from [REDACTED] provides strong support to the veracity of Claimant's testimony that she was having problems with her IBS that day. The June 7, 2013, letter from [REDACTED] High School provides strong support to the veracity of Claimant's testimony of her circumstances on June 3, 2013. CMH worker [REDACTED]' testimony provides reliable verification that Claimant had a short term debilitating illness on June 3, 2013.

Evidence presented at the hearing is sufficient to establish that Claimant had good cause, in accordance with Department policy, for failing to attend PATH on both May 28, 2013 and June 3, 2013.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department DID NOT properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) be reinstated and processed in accordance with Department policy. It is also ORDERED that Claimant be supplemented any benefits she was otherwise eligible for but did not receive due to this incorrect action.

/s/

Gary F. Heisler  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 08/16/2013

Date Mailed: 08/16/2013

**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

GFH/sw

cc:

