

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

IN THE MATTER OF:

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

Reg. No.: 2014-3898
Issue No.: 1038
Case No.: ██████████
Hearing Date: November 6, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 November 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's mother, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist, and ██████████, Family Independence Manager.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in 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 benefits.
2. Claimant was deferred from the FIP program; however, on an unspecified date, Claimant's deferral ended.
3. On September 3, 2013, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice for Claimant to attend her orientation on September 13, 2013. Exhibit 1.

4. Claimant failed to attend her scheduled PATH orientation.
5. On September 23, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 1, 2013. Exhibit 1.
6. On September 23, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.
7. On October 1, 2013, Claimant failed to attend her scheduled triage appointment and the Department found no good cause for her failure to participate in employment-related activities.
8. On October 7, 2013, Claimant filed a hearing request, protesting the FIP case closure. See Exhibit 1.

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.

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 (July 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.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, from its system at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229 (July 2013), p. 6.

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 (July 2013), p. 9. Good cause is determined during triage. BEM 233A, p. 9. 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. 4. 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. 4-6.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was deferred from the FIP program; however, on an unspecified date, Claimant's deferral ended. On September 3, 2013, the Department sent Claimant a PATH Appointment Notice for Claimant to attend her orientation on September 13, 2013. Exhibit 1. Claimant failed to attend her scheduled PATH orientation. On September 23, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 1, 2013. Exhibit 1. On September 23, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1. On October 1, 2013, Claimant failed to attend her scheduled triage appointment and the Department found no good cause for her failure to participate in employment-related activities.

At the hearing, Claimant testified that she moved at the end of July 2013. Moreover, Claimant testified that she contacted the Department and left a voicemail notifying it of a change of address on August 9, 2013. Also, on August 18, 2013, Claimant testified that she again contacted the Department and left a voicemail notifying it of a change of address. However, Claimant testified that the PATH Appointment Notice was sent to her old address and the Department failed to update it. Claimant testified that she received the PATH Appointment Notice on September 14, 2013, the day after her scheduled orientation because it was forwarded to her. Claimant testified that she contacted the Department that day (weekend) and left another voicemail. Claimant also testified that she believed that she also received the Notice of Noncompliance letter after her scheduled triage. The Department testified that it did not receive any of Claimant's alleged contacts above.

Additionally, Claimant provided a copy of her Michigan driver's license, which indicated her updated address and that it was issued on August 12, 2013. See Exhibit A. Claimant also provided a copy of her envelope, which contained her Notice of Hearing letter dated October 17, 2013. See Exhibit A. A review of the envelope indicated that it was sent to Claimant's previous address and that it appeared to be forwarded to her new address. See Exhibit A.

Other changes must be reported within 10 days after the client is aware of them. BAM 105 (July 2013), p. 9. These include, but are not limited to, changes in: address and shelter cost changes that result from the move. BAM 105, p. 9. Changes may be reported in person, by mail or by telephone. BAM 105, p. 9. For FIP cases, the Department acts on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220 (July 2013), p. 6.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP case effective November 1, 2013, ongoing. Claimant provided credible testimony that she notified the Department of a change of address more than two times and the Department failed to process the change report in accordance with Department policy. See BAM 105, p. 9 and BAM 220, p. 6. Claimant's allegation that she contacted the Department on August 9 and 18, 2013, is supported by the fact that her driver's license was issued with her new address around the same time period on August 12, 2013. See Exhibit A. Based on this information, it is reasonable to conclude that Claimant received the PATH Appointment Notice and Notice of Noncompliance after the scheduled dates. It appears that Claimant's mail is still being forwarded as she provided a copy of the Notice of Hearing envelope, which confirmed the forwarding information. See Exhibit A.

In summary, Claimant provided credible testimony and evidence that she never received her PATH Appointment Notice and Notice of Noncompliance letter timely due to the letters being sent to the incorrect address. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case. Because this was Claimant's second noncompliance, the Department did not act in accordance with Department policy when it closed Claimant's case for a six-month minimum. BEM 233A, p. 8.

DECISION AND ORDER

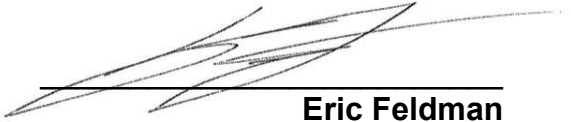
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective November 1, 2013, ongoing.

Accordingly, the Department's FIP 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. Remove Claimant's second FIP sanction from her case;
2. Reinstate Claimant's FIP case as of November 1, 2013, ongoing;
3. Begin recalculating the FIP budget for November 1, 2013, ongoing, and in accordance with Department policy;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from November 1, 2013, ongoing; and

5. Notify 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: November 13, 2013

Date Mailed: November 13, 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.

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]