

**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.: 2014-2941
Issue No.: 1038
Case No.: ██████████
Hearing Date: November 4, 2013
County: Wayne (35)

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 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, 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 August 6, 2013, the Partnership. Accountability. Training. Hope. (PATH) program sent Claimant a Noncompliance Warning Notice.
3. On August 14, 2013, Claimant attended a re-engagement meeting with the PATH program.
4. Claimant failed to attend employment-related activities on September 20, 2013. See Exhibit 1.

5. On September 20, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on September 26, 2013. Exhibit 1.
6. On September 20, 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 September 26, 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.
8. On October 1, 2013, Claimant requested a hearing disputing the FIP benefit termination. 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.

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. On August 6, 2013, the PATH program sent Claimant a Noncompliance Warning Notice. On August 14, 2013,

Claimant attended a re-engagement meeting and agreement with the PATH program. The Department presented as evidence its case notes in regards to the PATH program. See Exhibit 1. The case notes indicated that Claimant did meet at the re-engagement agreement. See Exhibit 1. Moreover, the case notes indicated that Claimant was told to do 15 hours of job search and 15 hours of community service. See Exhibit 1. It was determined during the hearing that these hours are required weekly. Moreover, the case notes indicated that a community service was selected and he had to have a contract signed. See Exhibit 1.

Additionally, the case notes indicated that Claimant did not call or show for the job search submission on August 19, 2013. On August 26, 2013, the notes indicated a meeting was held with Claimant that stated he failed to start community service. See Exhibit 1. The notes further indicated that Claimant provided some hours of job search for the prior weeks and it was discussed that Claimant cannot use hours for related training. See Exhibit 1. The notes indicated that Claimant was told he can only do hours in job search and community service. Nevertheless, the Department testified that Claimant was noncompliant for his failure to meet the weekly 15 hours of job search and 15 hours of community service. It should be noted that Claimant's PATH caseworker was not present for the hearing.

At the hearing, Claimant agreed that he attended the re-engagement on August 14, 2013 and that he had to submit 15 hours of job search and 15 hours of community service per week. Claimant testified he was a full-time student (12 credits) and that the educational portion sufficed his 15 hours of job search. Claimant also testified that he was doing on-the-job training for a company. Claimant testified that for the past year the PATH program allowed the on-the-job training to count towards the 15 hours of community service. Claimant believed there to be miscommunication.

A review of the case notes appeared to indicate that Claimant was doing job search along with non-core training in the past for June 2013. See Exhibit 1. Also, a review of the case notes dated August 26, 2013, indicated that he was using his related training for the community service in the past. Claimant testified that on or around August 26, 2013, he learned that he cannot apply his training hours towards the community service.

Nevertheless, the case notes indicated that the triage was requested due to him missing three weeks of participation. See Exhibit 1. Thus, on September 20, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on September 26, 2013. Exhibit 1. On September 20, 2013, the Department also 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 September 26, 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.

Claimant testified that he received the Notice of Noncompliance letter on September 26, 2013, the day of his triage. Claimant testified that he contacted his worker that same

day, but left a voicemail. Claimant testified that the Department contacted him the following day and Claimant reiterated that he received the mail after his scheduled triage. The Department agreed that a phone call occurred, however, it testified that it spoke to the Claimant on the day of triage.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective November 1, 2013, ongoing. First, the Department did not credibly testify and/or establish that a noncompliance actually occurred. The Department based the noncompliance on the case notes submitted. Second, Claimant credibly testified that he was cooperating with the PATH program by having his educational portion in lieu of the 15 hours of job search. Also, Claimant credibly testified that he believed his job training hours sufficed his community service. The case notes do indicate, though, that he was notified to conduct community service on August 14, 2013. See Exhibit 1. However, the case notes contradict this information because it appeared that Claimant was allowed to use his training hours in lieu of the community service in the past. The case notes indicated that he was told he can no longer do this as of August 26, 2013. See Exhibit 1. Third, the case notes indicated that Claimant missed three weeks of participation. However, the Department failed to provide any credible testimony or evidence regarding the three weeks missing as indicated in the case notes. The case notes itself provide contradictory information and limited information of the noncompliance at best. Fourth, Claimant's PATH caseworker was not present for the hearing to rebut Claimant's testimony regarding his noncompliance.

In summary, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it found Claimant noncompliant for a second time and closed his FIP benefits effective November 1, 2013, ongoing. The burden is on the Department to establish Claimant's noncompliance. A review of the Department's testimony and evidence determined that it failed to show that Claimant was noncompliant for a second time. A determination of good cause is not necessary as the Department failed to establish Claimant's noncompliance with the PATH program.


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 improperly closed Claimant's FIP benefits 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 his case;
2. Reinstate Claimant's FIP case as of November 1, 2013, ongoing;
3. Begin recalculating the FIP budget for November 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FIP benefits he 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 12, 2013

Date Mailed: November 12, 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:

2014-2941/EJF

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]