

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-6272
Issue No.: 1038
Case No.: ██████████
Hearing Date: November 21, 2013
County: Wayne (82-15)

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 November 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██████████

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) for failure to cooperate with employment-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. On October 8, 2013, Claimant applied for FIP benefits and requested a deferral from participation in the PATH program based on disability.
2. Claimant received FIP benefits while her deferral was processed.
3. On February 25, 2013, the Medical Review Team (MRT) notified the Department that Claimant was not disabled and was not eligible for a deferral from the PATH program.
4. On July 16, 2013, the Department sent Claimant a PATH Appointment Notice requiring her to attend a July 29, 2013, PATH orientation. (Exhibit 3)

5. Claimant did not attend the July 29, 2013, PATH orientation.
6. On August 5, 2013, the Department sent Claimant a Notice of Noncompliance notifying her of the noncompliance and scheduling a triage on August 13, 2013. (Exhibit 4)
7. On August 13, 2013, Claimant attended the triage, and the Department concluded, based on a Medical Needs – PATH form completed and submitted by Claimant's doctor on August 14, 2013, that Claimant had good cause for her noncompliance. (Exhibit A)
8. On September 10, 2013, the Department sent Claimant a PATH Appointment Notice requiring her to attend a September 23, 2013, PATH orientation. (Exhibit 5)
9. Claimant did not attend the September 23, 2013, PATH orientation.
10. On September 30, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her of the noncompliance and scheduling a triage on October 8, 2013 (Exhibit 6) and (ii) a Notice of Case Action closing her FIP case effective November 1, 2013, for a six-month minimum because Claimant had failed to comply with employment-related activities. (Exhibit 7)
11. On October 8, 2013, Claimant attended the triage, but the Department concluded that she had no good cause for her noncompliance.
12. On October 9, 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.

As a condition of continued FIP eligibility, work-eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1; BEM 233A (January 2013), p. 1.

In this case, Claimant alleged a disability when she filed her FIP application in October 2012 and sought a deferral from the PATH program based on her disability. After MRT concluded that Claimant was not disabled, the Department sent her a July 16, 2013, PATH Appointment Notice requiring her to attend a July 29, 2013, PATH orientation. When Claimant failed to attend, she was sent an August 5, 2013, Notice of Noncompliance scheduling an August 13, 2013, triage for her to explain her noncompliance. Claimant explained to her worker that she was unable to participate in the PATH program because of her disability and her doctor completed and forwarded a Medical Needs – PATH form, DHS-54E, to the Department on August 14, 2013. The worker testified that, because she was a new worker for Claimant and was not aware of the prior MRT decision, she agreed that Claimant had established good cause for her noncompliance. The worker explained, however, that she subsequently received Claimant's file and, because Claimant's request for deferral had been denied by MRT in February 2013, she sent Claimant a September 10, 2013, PATH Appointment Notice requiring her to attend a September 23, 2013, PATH orientation. Claimant's FIP case subsequently closed because Claimant did not attend the appointment and at the triage scheduled on October 6, 2013, the Department concluded that she did not have good cause for her failure to attend the orientation.

Department policy provides that after an MRT decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, the Department must gather new verification and send for an updated MRT decision. BEM 230A, p. 16. When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, the Department must send the DHS-518, Assessment For FIP Participation, to the doctor and request supporting medical evidence. BEM 230A, p. 16. If new medical evidence is not provided, the case does not have to be sent back to MRT; the previous MRT decision stands. BEM 230A, p. 16.

In this case, the Department testified that it did not request new medical documentation or refer Claimant's case back to MRT when it received the DHS-54E dated August 14, 2013. Although the Department alleged that the DHS-54E alleged the same disabilities that MRT assessed when it found no disability, Claimant testified that the form alleged additional disabilities not referenced in the medical documentation included in the medical packet submitted to the Department in 2012 which MRT relied on in its February 2013 decision finding no disability. A review of the August 14, 2013, DHS-54E shows that Claimant's doctor, in addition to identifying Claimant's conditions and indicating that those conditions would prevent her from participating in any employment indefinitely, included a handwritten notation that Claimant "is under the care of various specialists [and] is not able to participate in any type of employment." Because Claimant alleges new medical conditions were presented and because there is no evidence that the Department followed up with Claimant's doctor to request supporting medical evidence, the Department did not act in accordance with Department policy when it processed the August 14, 2013, DHS-54E presented to the Department.


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.

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 November 1, 2013;
2. Remove the FIP employment-related sanction applied to Claimant's record on or about November 1, 2013;
3. Process Claimant's August 14, 2013, DHS-54E to determine her eligibility for a PATH deferral based on disability; and
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from November 1, 2013, ongoing.


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

Date Signed: November 26, 2013

Date Mailed: November 26, 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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]