

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201330229
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Oakland (#04)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Monday March 25, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly closed Claimant's FIP benefits for non-compliance 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. The Claimant was an ongoing FIP recipient that was mandatory participant in the Partnership Accountability Training Hope (PATH) program.
2. On December 3, 2012, the Claimant reported employment to the PATH worker.
3. The Claimant did not provide proof of employment to PATH as required.
4. On January 10, 2013, the Department sent Notice of Noncompliance instructing Claimant to attend a triage on January 18, 2013 to discuss whether good cause

existed for the non-compliance. (Exhibit 4)

5. On this same date, the Department sent a Notice of Case Action informing the Claimant that FIP benefits effective would be terminated effective February 1, 2013, based on the PATH non-compliance. (Exhibit 3)
6. A life-time non-compliance sanction was also imposed.
7. As a result of the Claimant's failure to appear for the triage, the Department determined that good cause was not established for the PATH non-compliance.
8. On February 11, 2013, the Department received Claimant's written hearing request disputing the action.

CONCLUSIONS OF LAW

The Department of Human Services__ policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Department requires FIP recipients to participate in the PATH program or other employment and self-sufficiency related activities and to accept employment when offered unless deferred. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, p. 6. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A, p. 3.

PATH participants will not be terminated from a PATH program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical

attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

The Department must take several steps prior to certifying a case closure for a lifetime sanction. The case and non-cooperation history must be reviewed to determine if the lifetime sanction is an appropriate closure. BEM 233A, p. 9. The review team should consist of the PATH Coordinator or Program Manager and FIM. They must conduct a final case review and document in the case file and on the final noncooperation record in Bridges that the lifetime sanction final review was completed and who participated. BEM 233A, p. 10. This review must be completed within five business days from the date the triage was held and include the.

In this case, Claimant testified that she worked a temporary job for one week in December 2012, but failed to provide verification of the employment to the PATH program as required within the time allotted. Once the job ended she continued her community services efforts and job searches, as instructed. Claimant asserts that she did not attend the triage appointment on January 18, 2013 as scheduled because she mistakenly went to the Work First office for the meeting, instead of the Department office. She admittedly made no attempt to contact any one regarding the missed triage appointment prior to case closure. Based on the evidence on record, I find the Department established it acted in accordance with policy when it terminated Claimant's FIP benefits for non-compliance with employment related activities without good cause. It did not, however, establish on this record that the lifetime sanction was properly imposed in this case. There was no evidence presented on record to support a finding that the Department followed the procedures outlined in BEM 233A prior to certifying the case closure for a life-time sanction. Therefore, the action of imposing a life-time sanction against the Claimant is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with policy when it terminated Claimant's FIP benefits effective February 1, 2013, but did not act properly when it imposed a life-time sanction for non-compliance.

Accordingly, the Department's FIP decision is hereby, **AFFIRMED** in part and **REVERSED** in part.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department will remove the imposition of a life-time sanction; and impose a 6 month sanction.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/29/2013

Date Mailed: 3/29/2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

