

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201331834
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Wayne (#57)

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] (Case Manager).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits for failure to participate in 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 who is a mandatory participant in Work First/ Partnership Accountability Training Hope (PATH) program.
2. On January 30, 2013, the Department sent Notice of Non-compliance to Claimant, scheduling her to attend triage on February 5, 2013 to discuss reasons for non-compliance. (Exhibit 2)
3. On this same date, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would terminate effective March 1, 2013, for failure to participate in employment related activities. (Exhibit 1)

4. The Claimant did not attend triage nor call to reschedule, and as a result, the Department determined that good cause did not exist for non-compliance.
5. The Department imposed a 6 month sanction for a second occurrence of non-compliance with employment related activities.
6. On February 21, 2013, the Department received Claimant's written hearing request.

CONCLUSIONS OF LAW

The Department of Human Service (DHS) 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)) is temporary cash assistance to support a family's movement to self sufficiency. It 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 recipients to participate in the PATH program or other employment and self-sufficiency related activities and to accept employment when offered. 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.

In this case, Claimant was required to participate in the PATH program. The notice of non-compliance mailed to the Claimant on January 30, 2013, instructing her to attend a triage on February 5, 2013 was not returned as undeliverable by the US postal service. Claimant did not call or attend the triage. As a result, the Department determined that good cause did not exist for Claimant's failure to participate in employment related activities and allowed the negative action to remain. At hearing, Claimant acknowledged receipt of the notice of non-compliance instructing her to attend triage. She provided no reason for failure to attend the triage as scheduled. She did, however, assert that she did not participate in the PATH program because she did not receive updated paperwork from the Department to attend the PATH Program. Policy provides that clients must comply with triage requirements and provide good cause verification within the negative action period. Here, the Claimant did not comply with triage nor provide verification of good cause prior to the closure of her case, as required. Therefore, the Department established it acted in accordance with policy when it terminated Claimant's FIP benefits for non-compliance with employment related activities and imposed a 6 month sanction for a second occurrence.

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 the Claimant's FIP benefits effective March 1, 2013 for non-compliance with employment related activities.

Accordingly, the Department's FIP decision is hereby, **AFFIRMED**.



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

Date Signed: 4/4/2013

Date Mailed: 4/4/2013

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:

