

**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.: 2013-44923
Issue Nos.: 1005,1038
Case No.: ██████████
Hearing Date: May 30, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 Thursday, May 30, 2013. Claimant and her husband, ██████████, appeared and testified. Participants on behalf of the Department of Human Services ("Department") included ██████████, PATH Case Manager, and ██████████ Agency Translator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to a 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. Claimant's husband alleged a disability as grounds for deferral from participation in the work participation program.
3. Claimant sought deferral from participation in the work participation program as a spouse who provides care for a spouse with disabilities living in the home.

4. The Department referred Claimant's husband to the Medical Review Team (MRT) to determine his ability to participate in work activities.
5. On March 18, 2013 the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH on March 26, 2013. (Exhibit 2).
6. Claimant attended her PATH appointment on March 26, 2013 and was sent home after presenting the PATH program with a completed medical needs form indicating that her husband is disabled and she needs to care for him.
7. On March 27, 2013, the MRT determined that Claimant's husband was not disabled and that he was work ready with limitations and on April 10, 2013, the Department sent Claimant a Quick Note informing her of the MRT decision. (Exhibit 7).
8. On April 10, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage appointment on April 18, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 3).
9. On April 10, 2013, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits effective May 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 6)
10. Claimant's FIP case closed effective May 1, 2013 for failure to participate in employment and/or self-sufficiency-related activities without good cause and a three month sanction was imposed.
11. On April 19, 2013, the Department received the Claimant's request for a hearing disputing the closure of her FIP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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.

As a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities. BEM 233A (January 2013), p. 1. A person alleging a disability can be temporarily deferred from participating in the work program as a condition of FIP eligibility. BEM 230A (January 2013), pp.9-13. A spouse who provides care for a spouse with disabilities living in the home is not a WEI and is not referred to PATH if: (i) the spouse with disabilities lives with the spouse providing care; (ii) a doctor verifies all of the following in writing or by using a DHS-54A, Medical Needs, form or DHS-54E, Medical Needs-PATH: the spouse with disabilities requires a caretaker due to the extent of the disability, the spouse is needed in the home to provide care; and the spouse/parent cannot engage in an employment-related activity due to the extent of care required. BEM 230A, pp.14-15.

Additionally, Claimant was an ongoing recipient of FIP benefits. Claimant informed the Department that due to medical reasons, her husband was unable to participate in the work program and that she was unable to participate as she is his caretaker spouse. At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. BEM 230A, p.9. A three step process consisting of establishing a disability, defining the disability and referral to MRT must be completed. Clients will be temporarily deferred under the establishing incapacity category pending the determination of the MRT. BEM 230A, pp.9-11. The Department is then required to review the decision of the MRT and if determined work ready, the client is to be fully engaged in PATH without any accommodation. Clients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230A, p.11.

In this case, the Department referred Claimant’s husband to MRT to be evaluated for a disability and to determine his ability to work, as required under BEM 230A. Prior to receiving the determination of the MRT, on March 18, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH on March 26, 2013. (Exhibit 2). Claimant attended the scheduled PATH appointment on March 26, 2013 and provided the PATH program with a copy of the medical needs form that was completed for her husband. Claimant informed PATH that she was the caretaker for her husband who was disabled according to his doctor. Claimant testified that she was sent home from her PATH appointment and was informed that someone from PATH would contact the Department regarding a deferral. On April 10, 2013, the Department sent Claimant a Notice of Noncompliance for not attending her PATH appointment and instructed her to attend a triage appointment on April 18, 2013 to discuss whether good cause existed for the noncompliance. (Exhibit 3). On April 10, 2013, the Department also sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits May 1, 2013 and impose a three month sanction for failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 6).

On March 27, 2013, the MRT determined that Claimant’s husband was not disabled and that he was work ready with limitations. On April 10, 2013, the Department sent Claimant a Quick Note informing her of the MRT decision. (Exhibit 7). A triage meeting

was conducted on April 18, 2013 at which Claimant appeared. The Department concluded that Claimant did not establish good cause for her noncompliance with PATH, as the MRT determined that Claimant's husband was not disabled and she did not meet the requirements for deferral as a caretaker of a disabled individual. BEM 233A, p. 4; BEM 230A, pp.14-15. Claimant's FIP case closed effective May 1, 2013 and a three month sanction was imposed. (Exhibit 5).

The Department referred Claimant to PATH and instructed her to attend on March 26, 2013. This was prior to the MRT making a determination regarding her husband's alleged disability and prior to the three step process discussed above being completed. Claimant and her husband should have been deferred under the establishing incapacity category pending the determination of the MRT. BEM 230A, pp.9-11. Claimant attended her scheduled PATH appointment and should not have been found noncompliant at the triage, as the decision of the MRT had not yet been made. After the MRT determined that Claimant's husband was work ready with limitations, a referral to PATH should have been made for both Claimant and her husband. BEM 230A, p.11.

Therefore, the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause and imposed a three month sanction.

DECISION AND ORDER

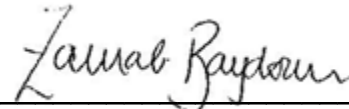
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it terminated Claimant's FIP benefits due to noncompliance without good cause and imposed a three month penalty.

Accordingly, the Department's decision is REVERSED.

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

1. Remove the sanction that was imposed on Claimant's FIP case;
2. Initiate reinstatement of Claimant's FIP case effective May 1, 2013 in accordance with Department policy and consistent with this Hearing Decision; and

3. Begin issuing supplements to Claimant for any FIP benefits that she was entitled to receive but did not from May 1, 2013, ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 6, 2013

Date Mailed: June 6, 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

ZB/cl

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[REDACTED]
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