

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53292
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 27, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held on July 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly closed Claimant's Family Independence Program (FIP) case based on Claimant's husband's failure to participate in employment-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 and submitted medical documentation to the Medical Review Team (MRT) to establish a deferral from participation in the work participation program.
3. On April 29, 2013, MRT concluded that Claimant's husband was not disabled and denied his request for a deferral.

4. On May 15, 2013, the Department sent Claimant a Quick Note advising Claimant that MRT had determined that her husband did not meet the definition of disabled and would be required to attend the Partnership.Accountability.Training.Hope.(PATH) program administered by the Michigan Works Agency (MWA).
5. On May 15, 2013, the Department sent Claimant a PATH Appointment Notice referring her husband to the PATH program on May 28, 2013.
6. Claimant did not participate in the May 28, 2013, PATH appointment.
7. On June 3, 2013, the Department sent Claimant a Notice of Noncompliance scheduling a triage on June 13, 2013, concerning her husband's noncompliance.
8. On June 13, 2013, Claimant and her husband attended the triage and explained that Claimant's husband did not attend the orientation because he was disabled and the attorney representing him for federal disability benefits at the Social Security Administration (SSA) had advised him not to attend the PATH program.
9. The Department held the triage and found that Claimant had failed to establish good cause for his noncompliance.
10. On June 3, 2013, the Department sent Claimant a Notice of Case Action closing her FIP case effective July 1, 2013, based on her husband's failure to participate in employment-related activities without good cause.
11. The Department imposed a first sanction for failure to comply with employment-related obligations resulting in the closure of Claimant's FIP case for a three-month minimum.
12. On June 13, 2013, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM) and the Department of Human Services 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.

Additionally, on June 3, 2013, the Department sent Claimant a Notice of Case Action advising her that her FIP case was closing effective July 1, 2013, for a minimum of three months based on her husband's noncompliance with employment-related activities without good cause.

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

In this case, Claimant's husband had alleged a disability and sought a deferral from participation in the PATH program. On April 29, 2013, the Medical Review Team (MRT) concluded that Claimant was not disabled and denied the deferral. If MRT denies the deferral, the client must be referred to a work participation program. BEM 230A, p. 11. The Department sent Claimant a May 15, 2013, PATH Appointment Notice requiring her husband's attendance at the PATH program on May 28, 2012. Claimant's husband did not attend the May 28, 2013, appointment.

Failing or refusing to appear and participate with PATH or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficiency-related activities. BEM 233A, p. 1. When the Department became aware that Claimant's husband had not engaged in PATH, it sent Claimant a June 3, 2013, Notice of Noncompliance notifying her of the noncompliance and scheduling a triage on June 13, 2013. Work participants will not be terminated from a work participation program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A, p. 3. Good cause must be based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p. 7.


In this case, Claimant and her husband attended the triage and informed the Department that the husband did not attend the PATH program because he was disabled and because his attorney for federal SSA disability benefits had advised him not to attend. The husband's contention that he was too disabled to work was contradicted by MRT's finding that he was not disabled and the attorney's advice not to attend the PATH program did not constitute a valid reason for noncompliance which was beyond Claimant's husband's control. Thus, the Department properly concluded that the husband did not establish good cause for his noncompliance. Although there was some discussion on the record concerning whether MRT had referred Claimant to the PATH program subject to limitations, because Claimant failed to attend the PATH program, he could not establish that the PATH program provider failed to make reasonable accommodations for his disability or his needs related to his disability. See BEM 233A, p. 4. Under the facts in this case, the Department acted in accordance with Department policy when it closed Claimant's FIP case for Claimant's husband's failure to comply with employment-related FIP activities without good cause. Because this was Claimant's husband's first incident of noncompliance, the Department properly applied a

three-month sanction to Claimant's FIP case, preventing her from receiving FIP for the period between July 1, 2013, and September 30, 2013. BEM 233A, p 6.

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 Department policy when it closed Claimant's FIP case for a three-month minimum.

Accordingly, the Department's decision is AFFIRMED.


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

Date Signed: July 22, 2013

Date Mailed: July 22, 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 affect 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

2013-53292/ACE

Re Michigan Administrative hearings
consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

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