

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

IN THE MATTER OF:

██████████
██████████████████
████████████████████

Reg. No.: 2013-56684
Issue No.: 1038
Case No.: ██████████
Hearing Date: August 5, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 held on August 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's friend, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's 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. On February 12, 2013, Claimant was sent a Noncompliance Warning Notice from the Partnership. Accountability. Training. Hope. (PATH) program due to his failure to participate in employment and/or self-sufficiency related activities for the week of January 27, 2013. Exhibit 1.
3. On February 12, 2013, the Noncompliance Warning Notice also scheduled Claimant for a reengagement appointment on February 19, 2013. Exhibit 1.

4. On February 19, 2013, Claimant failed to attend the reengagement appointment. Exhibit 1.
5. On April 25, 2013, the PATH program sent Claimant a Triage Meeting Notice. Exhibit 1.
6. On April 25, 2013, Claimant failed to participate in employment and/or self-sufficiency related activities. Exhibit 1.
7. On May 3, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on May 10, 2013. Exhibit 1.
8. On May 3, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective June 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2.
9. On May 10, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. See Exhibit 1.
10. On July 2, 2013, Claimant requested a hearing, disputing the FIP benefit termination. Exhibit 1.

CONCLUSIONS OF LAW

Department 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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the

noncompliant person and must be verified. BEM 233A, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. On February 12, 2013, Claimant was sent a Noncompliance Warning Notice from PATH program due to his failure to participate in employment and/or self-sufficiency related activities for the week of January 27, 2013. Exhibit 1. On February 12, 2013, the Noncompliance Warning Notice also scheduled Claimant for a reengagement appointment on February 19, 2013. Exhibit 1. On February 19, 2013, the Department testified that Claimant failed to attend the reengagement appointment. Exhibit 1. On April 25, 2013, the PATH program sent Claimant a Triage Meeting Notice. Exhibit 1. On April 25, 2013, Claimant failed to participate in employment and/or self-sufficiency related activities. Exhibit 1. On May 3, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on May 10, 2013. Exhibit 1. On May 3, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective June 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2. On May 10, 2013, Claimant failed to attend the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. See Exhibit 1.

At the hearing, Claimant testified that he did participate in the PATH program the week of January 27, 2013. Claimant and Claimant's friend both testified that they attended the reengagement appointment on February 19, 2013. Claimant testified that they met with the PATH caseworker and requested for himself to be deferred from the PATH program due to his medical conditions. Claimant testified that he was advised that he has to see his DHS caseworker regarding any deferral request. Claimant testified that two weeks later he saw his DHS caseworker and completed the forms for a temporary deferral. Claimant testified that his physician completed the forms at the end of February or beginning of March 2013. Claimant testified that his DHS caseworker notified him that he is deferred from March 2013 through May 2013. It should be noted that the DHS caseworker that Claimant was referring too was not present for the hearing.

Additionally, Claimant testified that he was unable to attend the triage on May 10, 2013 due to his son being hospitalized for suicide attempts. Claimant testified that he attempted to contact the Department to reschedule the May 10, 2013 triage due to his son's hospitalization. Claimant further testified that his Child Protective Services caseworker emailed the Department as well to reschedule. Claimant did not present any proof of the e-mail. Claimant did provide with his request for a hearing a Child Protective Proceedings document regarding his son. See Exhibit 1.

On the other hand, the Department presented credible evidence that Claimant was not temporarily deferred. First, the Department presented Claimant's correspondence history that does not indicate any medical forms being sent to Claimant other than on January 8, 2013. See Exhibit 2. Second, the Department presented as evidence Claimant's Employment Services – Summary document, which does not indicate any deferral reasons. See Exhibit 2. Third, the Department presented as evidence Claimant's Michigan FIP Time Limit document, which again does not indicate any deferral reasons and that Claimant is actually a mandatory participant in the PATH program during his alleged deferral period. See Exhibit 2. Claimant failed to present any evidence that he was granted a temporary deferral.

Nevertheless, the Department improperly closed Claimant's FIP benefits effective June 1, 2013, ongoing. Claimant credibly testified that he attempted to contact the Department to reschedule his triage appointment. Claimant presented credible testimony and evidence that his son was hospitalized for suicidal issues. See Child Protective Proceedings, Exhibit 1. It is evident that Claimant had difficulty to attend the triage appointment due to his family issues. It should be noted, though, Claimant failed to present evidence that he was deferred from the PATH program. The Department presented credible evidence that Claimant was not deferred. See Exhibit 2. However, the Department will be ordered to conduct a new triage with the Claimant to jointly discuss noncompliance and good cause reasons. See BEM 233A, pp. 7-8.

DECISION AND ORDER

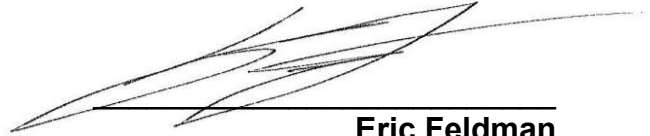
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department improperly closed Claimant's FIP benefits effective June 1, 2013, ongoing, in accordance with Department policy.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and on the record.

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

1. Begin removing Claimant's first FIP sanction from his case;
2. Begin reinstating Claimant's FIP case effective June 1, 2013, ongoing;
3. Begin issuing supplements to Claimant for any FIP benefits he was eligible to receive but did not from June 1, 2013, ongoing; and

4. Begin notifying Claimant in writing of a new triage meeting to determine if he had a good cause valid reason for the noncompliance with employment and/or self-sufficiency related activities, in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 13, 2013

Date Mailed: August 13, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]