

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-56934
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 22, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits for a minimum three-month period for failure to comply with 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.
2. On May 3, 2013, the Department sent Claimant a PATH Appointment Notice requiring her to attend the PATH program on May 13, 2013.
3. Claimant did not attend the May 13, 2013, PATH appointment.
4. When Claimant did not attend the May 13, 2013, appointment, on May 22, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her of the noncompliance and scheduling a triage on May 30, 2013, and (ii) a Notice of Case Action, notifying her of the closure of the FIP case effective July 1, 2013, due to noncompliance with employment-related activities without good cause.

5. Claimant attended the triage, but the Department concluded that she did not have good cause for failing to attend the May 13, 2013, hearing, and closed her FIP case effective July 1, 2013, for a three-month minimum.
6. On July 13, 2013, Claimant filed a hearing request, protesting 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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

On May 22, 2013, the Department sent Claimant a Notice of Case Action advising her that, based on her noncompliance with employment-related activities without good cause, effective July 1, 2013, her FIP case would close and be sanctioned for a minimum three-month period.

In order to increase their employability and obtain employment, work-eligible individuals (WEIs) seeking FIP are required to participate in a work participation or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1; BEM 233A (January 2013), p. 1. 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, pp. 1-2.

In this case, Claimant was sent a May 3, 2013, PATH Appointment Notice requiring her to attend the PATH program on May 13, 2013. Claimant did not attend the May 13, 2013, appointment. Therefore, Claimant was in noncompliance with her FIP employment-related activities.

However, FIP recipients will not be terminated from PATH for noncompliance, and their FIP case may not be closed, without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. Good cause includes an unplanned event or factor that likely prevents or significantly interferes with employment and/or self-sufficient-related activities. BEM 233A, p. 5.

In this case, the Department testified that it sent Claimant a Notice of Noncompliance on May 22, 2013, notifying her that she had failed to participate in required activities and scheduling a triage on May 30, 2013. Claimant appeared at the triage and explained that she did not attend because she retrieved the notice from her post office box, which

served as her mailing address, on or about May 16, 2013, three days after the appointment date. The Department concluded that Claimant had failed to establish good cause and closed her FIP case.

At the hearing, Claimant testified that, because she did not have stable housing and or reliable transportation, she was not able to get to her post office box on a consistent basis. She explained that when she met with her Department worker on May 3, 2013, she told him that she wanted to attend PATH despite her barriers. Therefore, the Department properly referred her to the PATH program. BEM 229 (January 2013), p 5. Claimant contended that her worker advised her at the May 3 meeting that she would be getting the PATH appointment notice within the week, and while she consistently checked her box the first week, she was unable to do so the second week. When she finally got the notice from her box, it was after the appointment date. The Department worker pointed out that the PATH Appointment Notice sent to Claimant was dated May 3, 2013, the same day he spoke to Claimant and advised her that she would be receiving the notice soon. Because Claimant identified the post office box as her mailing address, the notice was delivered to that address, and Claimant's failure to timely retrieve the notice was within her control and not an unplanned factor or event, the Department acted in accordance with Department policy when it found that Claimant lacked good cause for her noncompliance. It is further noted that the PATH Appointment Notice advised Claimant that she had to attend PATH within 15 days of the date of the notice and Claimant did not contact the Department until May 21, 2013, more than 15 days after the May 3, 2013, PATH Appointment Notice. See BEM 229, p. 5.

Because this was Claimant's first occurrence of noncompliance, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. 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.

Accordingly, for the reasons stated above and on the record, the Department's decision is AFFIRMED.



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

Date Signed: August 27, 2013

Date Mailed: August 27, 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

ACE/pf

cc:

