

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

IN THE MATTER OF:

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

Reg. No.: 2013-57147
Issue No.: 1038
Case No.: ██████████
Hearing Date: August 8, 2013
County: Oakland (02)

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 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Case Manager; ██████████, Partnership. Accountability. Training. Hope. (PATH) Coordinator; and ██████████ Case Manager. Also, ██████████ was present as an interpreter for Claimant.

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. Claimant requested to be deferred from the PATH program due to medical reasons.
3. On an unspecified date, Claimant's medical packet was sent to the Medical Review Team (MRT) for review. See Exhibit 1.
4. On June 6, 2013, the MRT denied Claimant's deferral and determined he was not disabled – work ready. See Exhibit 1.

5. On June 14, 2013, the Department sent Claimant a PATH Appointment Notice for him to attend orientation on June 25, 2013. Exhibit 1.
6. On June 25, 2013, Claimant went to the orientation but he refused to participate because of his medical conditions.
7. On June 25, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 2, 2013. Exhibit 1.
8. On June 25, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.
9. On July 2, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
10. On July 5, 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. Claimant requested to be deferred from the PATH program due to medical reasons. On an unspecified date, Claimant's medical packet was sent to the MRT for review. See Exhibit 1. On June 6, 2013, the MRT denied Claimant's deferral and determined he was not disabled – work ready. See Exhibit 1. On June 14, 2013, the Department sent Claimant a PATH Appointment Notice for him to attend orientation on June 25, 2013. Exhibit 1. On June 25, 2013, Claimant went to the orientation but he refused to participate because of his medical conditions. On June 25, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 2, 2013. Exhibit 1. On June 25, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2013, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. On July 2, 2013, Claimant attended the triage appointment and the Department found no good cause for Claimant failure to attend an employment and/or self-sufficiency related activities.

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 the system. BEM 230A, p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 9.

Determination of a long-term disability is a three step process. BEM 230A, p. 10. The client must fully cooperate with both steps. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 10. Step three involves the referral to MRT. See BEM 230A, pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, the Department gathers the new verification and sends for an updated MRT decision. BEM 230A, pp. 12-13.

When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, the Department sends the DHS-518, Assessment for FIP Participation, to the doctor and requests supporting medical evidence. BEM 230A, p. 13. If new medical evidence is not provided, the Department

does not send the case back to the Medical Review Team. BEM 230A, p. 13. The previous MRT decision stands. BEM 230A, p. 13.

At the hearing, the Department testified that Claimant went to the orientation on June 25, 2013, but he refused to participate because of his medical conditions. The Department testified that he came to the orientation with his medication. Moreover, the Department testified that Claimant spoke to the case manager and ultimately stated that he would not participate.

Claimant testified that he went to the orientation and requested to see the case manager because he had a new medical report. Claimant also testified about his medical conditions. Claimant testified that he has documentation that he has to do many surgeries to avoid complications; specifically his kidney and liver. Claimant agreed that he went to the PATH orientation, but that he refused to participate due to his medical conditions.

At the triage, the Department testified that Claimant had an opportunity to present new medical information, but he did not. Moreover, the Department testified that Claimant provided only old medical documents that the MRT already reviewed when it denied his deferral request. The Department testified that Claimant stated he could not participate due to his medical conditions. Furthermore, the Department testified that Claimant was work ready and it had a current MRT denial.

Claimant testified that at the triage he brought new medical documents, but no one from the Department asked him to present it. Claimant testified that the Department asked about his heart condition and another medical issue, but nothing else. Claimant testified that he told the Department he needs hernia surgery as well as a medical issue with his head. Claimant testified that he brought documents from May and June 2013 for the triage. Claimant also testified that he had a neck issue and he was wearing a neck brace at the triage.

It should be noted that a review of Claimant's submitted medical documents range from the time period of April 2013 through July 2013. See Exhibit A. The medical documents address Claimant's abdominal pain, liver, pancreas, kidney, colon, and cervical spine. See Exhibit A.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP case effective August 1, 2013, ongoing, in accordance with Department policy. First, this hearing decision has no authority and/or jurisdiction to reverse the MRT decision for Claimant as it relates to a denial of a PATH deferral. BEM 230A states that when a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A, p. 16. Claimant's deferral not being granted is not a loss of benefits or services. Claimant's FIP case closure is based on his failure to participate in employment-related activities, which resulted in a notice of case action being issued for noncompliance.

Second, Claimant failed to participate in employment and/or self-sufficiency related activities by his refusing to participate in the orientation program. The Department provided evidence that the MRT denied him and that he is not disabled – work ready. Even though Claimant is testifying that he cannot participate, the MRT deemed him work ready. Claimant refused to participate in the PATH orientation, which is a noncompliance with the work participation program.

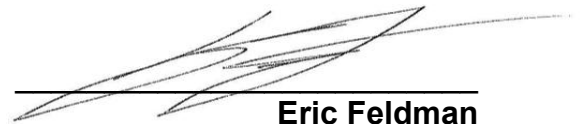
Finally, the Department credibly testified that Claimant did not provide any new medical documents at the triage to indicate whether an updated MRT decision was necessary. See BEM 230A, pp. 12-13. Claimant should have presented the new medical documents even if he is alleging that the Department did not ask for them. Nevertheless, the Department credibly testified that it did ask Claimant for any new medical records and Claimant failed to present it at the time of triage.

In summary, the Department did act in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, pp. 1 and 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 did act properly when it closed Claimant's FIP benefits effective August 1, 2013, ongoing.

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


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

Date Signed: August 16, 2013

Date Mailed: August 16, 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]