

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-58468
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne (82-31)

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 15, 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 case for Family Independence Program (FIP) case based on a 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 and a mandatory PATH participant.
2. Claimant did not participate in required PATH activities from May 20, 2013, to June 14, 2013.
3. Claimant's children's great-grandmother died on [REDACTED], and Claimant notified the Department of the death.
4. On June 19, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the work participation program and

scheduling a triage on June 26, 2013 and (ii) a Notice of Case Action notifying Claimant of the closure of the group's FIP case effective August 1, 2013, based on her noncompliance with employment-related activities without good cause.

5. Claimant did not attend the triage.
6. The Department held the triage, concluded that Claimant did not have good cause for her noncompliance, and closed the group's FIP case for a six-month minimum.
7. On July 12, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

Although the Department did not provide a copy of the Notice of Case Action with the hearing packet, it testified that it sent Claimant a June 19, 2013, Notice of Case Action notifying her that, effective August 1, 2013, because of her noncompliance with employment-related activities, her FIP case would close for a six-month minimum.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 1, 2013), p. 1; BEM 233A (January 1, 2013), p. 1. A client's failure to attend or participate in a work participation program or other employment service provider or to provide legitimate documentation of work participation constitutes a noncompliance with employment or self-sufficiency-related activities. BEM 233A, pp. 1-2. In this case, the Department testified that Claimant had failed to show any hours of job search from May 20, 2013, to June 7, 2013, and had failed to show up for a June 14, 2013, reengagement. At the hearing, Claimant admitted that she had not turned in her job search logs and had not participated in the reengagement appointment.

While the evidence established that Claimant was in noncompliance with her PATH activities, before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 7. In this case, the Department

credibly testified that on June 19, 2013, it sent Claimant both a Notice of Noncompliance and Notice of Case Action concerning the noncompliance. Although Claimant denied receiving the Notice of Noncompliance, she acknowledged receiving the Notice of Case Action and all other documents from the Department. Because both notices were sent the same day, to the same address, in the Department's ordinary course of business, Claimant failed to rebut the presumption that she received the Notice of Noncompliance. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). The Notice of Noncompliance notified Claimant of the noncompliance and the June 26, 2013, triage.

Claimant did not attend the triage. The Department credibly testified that it held the triage and concluded that Claimant had no good cause for her noncompliance. In determining good cause, the Department must consider the best information available during the triage and prior to the negative action date, including any verified information already on file with the Department or the work participation program. BEM 233A, pp. 7-8. In this case, Claimant had advised her Department worker that her children's great-grandmother, who was the children's sitter, had died on [REDACTED]. However, there was no evidence that the Department could rely on to establish that Claimant had good cause for her ongoing noncompliance beginning on May 20, 2013. Even at the hearing, Claimant failed to provide any explanation of how the great-grandmother's death on [REDACTED] affected her ability to comply with her job search obligation beginning May 20, 2013. While she testified that the great-grandmother served as her children's sitter, she failed to establish that she had ever advised the Department that she had daycare issues beginning May 20, 2013. To the contrary, Claimant testified that she had completed her PATH requirements but had either not turned in logs or signed in when in the office.


Because Claimant did not attend the triage and the Department had no basis for verifying any good cause explanation for Claimant's noncompliance, the Department acted in accordance with Department policy when it concluded that Claimant had no good cause for her noncompliance and closed her case.

Because this was Claimant's second occurrence of noncompliance with employment activities, as verified by Claimant's testimony, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a six-month minimum, the sanction applicable to second occurrences of noncompliance. BEM 233A, pp. 1, 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 six-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: August 20, 2013

Date Mailed: August 20, 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

2013-58468/ACE

cc:

