

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

IN THE MATTER OF:

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

Reg. No.: 2013-59653
Issue No.: 1038
Case No.: ██████████
Hearing Date: August 22, 2013
County: Wayne (31)

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 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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 effective August 1, 2013, ongoing, 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 was also an ongoing participant in the Partnership. Accountability. Training. Hope. (PATH) program.
3. On July 16, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 24, 2013. Exhibit 1.

4. On July 16, 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.
5. On July 24, 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.
6. On July 22, 2013, Claimant filed a hearing request, protesting the Department's action. 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.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was also an ongoing participant the PATH program. On July 16, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 24, 2013. Exhibit 1. On July 16, 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 24, 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.

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.

At the hearing, the Department testified that Claimant was not participating in the PATH program due to him not turning in his activity logs for the weeks of 6/2/13; 6/9/13; 6/23/13; and 6/30/13. See Exhibit 1. Due to Claimant not submitting these activity logs, the Department found Claimant to be in noncompliance and sent Claimant the Noncompliance letter. The PATH caseworker did have a reengagement meeting scheduled; however, the case notes indicated that Claimant never attended the reengagement meeting. See Exhibit 1. Finally, the Department testified that Claimant did attend the triage; however, he did not provide any proof of his activity logs. Thus, the Department found no good cause, which resulted in Claimant's FIP sanction.

Claimant testified that he did complete his participation in the PATH program for the alleged weeks that the Department testified that he did not submit proof. However, Claimant agreed that he did not submit proof of these logs. Moreover, Claimant agreed that he did not submit proof of these logs at triage to determine any good cause. Claimant also testified that he did show up to the reengagement meeting, however, he was late because he thought it began at a different scheduled time.

It should be noted that Claimant testified that the PATH program would only allow him to come once a month to submit his logs due to him having no child care. Claimant testified that he is a single parent, has three children under the age of six, and lacks child care.

As stated previously, no child care can be a good cause for noncompliance. Specifically, regarding no child care, the client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 4. BEM 233A continues to state for no child care:

- **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
- **Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS.

BEM 233A, p. 4.

Additionally, the Department does not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. BEM 233A, p. 2.

The Department testified, though, that Claimant was given the opportunity to apply for the Child Development and Care (CDC) program, but failed to complete the application. The Department testified that Claimant was given an application for CDC on April 17, 2013 and it was due on April 29, 2013. The Department testified that Claimant returned the CDC application on May 3, 2013 and it was denied for not being submitted timely as well as having an ineligible provider. Claimant testified that he did notify the Department that he did have child care issues. Claimant further testified that the Department did attempt to assist Claimant to find a child care provider. Claimant testified that he did reapply for CDC in May 2013; however, Claimant testified that he was denied again.


Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits in accordance with Department policy. First, Claimant admitted that he failed to submit the required activity logs to the Department. Additionally, Claimant testified that he failed to provide proof of the activity logs at the triage. Second, Claimant was given the opportunity to obtain day care in April 2013, which was before the noncompliance. However, the Department credibly testified that Claimant had failed to submit the required documentation timely. Claimant failed to provide verification in order for him to be deferred for lack of child care. See BEM 230A, p. 6.

Therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case and sanctioned him for the noncompliance effective August 1, 2013, ongoing. 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 properly closed Claimant's FIP case effective August 1, 2013, ongoing.

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



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

Date Signed: August 28, 2013

Date Mailed: August 28, 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]