

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

IN THE MATTER OF:



Reg. No.: 2013-60585
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Mecosta-00

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in person hearing was held on December 10, 2013, from Big Rapids, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Kim Kilmer, Sarah Kirby, Dawn Sizeland, and Teresa Moore.

ISSUE

Did the Department properly close Claimant's FIP benefits for failing to participate with PATH?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Following review of Claimant's deferral from PATH, medical records were gathered and forwarded to the Medical Review Team on May 20, 2013.
2. MRT determined on June 19, 2013, that the Claimant was work ready with limitations.
3. PATH appointment notice was sent to Claimant on June 19, 2013.
4. Claimant failed to complete PATH orientation on July 1, 2013.
5. Notice of Noncompliance was sent to Claimant on July 11, 2013 with a July 18, 2013 triage appointment.
6. At triage on July 18, 2013, Claimant was found noncompliant without good cause.

7. Claimant requested a hearing on July 22, 2013, contesting the closure of FIP benefits. Benefits were reinstated pending hearing.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

GOOD CAUSE FOR NONCOMPLIANCE

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral. Good cause includes the following:

Employed 40 Hours

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

Reasonable Accommodation

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability. BEM 233A

Additionally, after updated medical records were gathered, the Medical Review Team determined Claimant was "Not Disabled-Work Ready with Limitations" on June 14, 2013. The MRT Assessment states that Claimant is able to lift under 10 pounds frequently and 10 pounds frequently. MRT also found that Claimant was capable of standing/walking/sitting for "at least 2 hours in an 8 hour day". The Department and Work First representatives stated at hearing that these limitations would have been taken into consideration when determining Claimant's level of participation with PATH.

Claimant refused to sign the rules of participation for PATH at the orientation session. Claimant stated at hearing that she refused to sign the rules because the accommodations she needed were not contained in the standard rules. Claimant further testified that she would have only been physically capable of participating a few hours a week with PATH in July 2013 and would not be able to participate in any way following her knee replacement surgery.

Claimant did not give the Department an opportunity to provide her with reasonable accommodations or to implement a PATH plan that took into consideration her physical limitations. By refusing to complete the orientation and refusing to sign the required paperwork, Claimant was non-compliant with PATH without good cause. BEM 233A Therefore the Department's closure of Claimant's FIP benefits for failing to cooperate and participate with PATH was proper and correct.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

acted in accordance with Department policy when it closed Claimant's FIP benefits for failing to participate with PATH.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/19/2013

Date Mailed: 12/19/2013

NOTICE OF APPEAL: 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.

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).

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

ATM/pw

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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