

**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.: 2014-14985
Issue No(s): 1008
Case No.: ██████████
Hearing Date: January 6, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a telephone hearing was held on January 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Worker.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's 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.
2. Claimant was deferred from the Partnership. Accountability. Training. Hope. (PATH) program, however, on October 1, 2013, the Department sent Claimant a PATH Appointment Notice informing her to attend her scheduled orientation on October 14, 2013. See Exhibit 1.
3. The Department erred in sending Claimant to the proper PATH location and on October 14, 2013, the Department sent Claimant a new PATH Appointment Notice

informing her to attend her scheduled orientation on October 21, 2013. See Exhibit 1.

4. Claimant failed to attend her scheduled orientation.
5. On November 15, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on November 21, 2013. Exhibit 1.
6. On November 15, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective December 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.
7. Claimant failed to attend the triage appointment on November 21, 2013 and the Department determined no good cause for her non-compliance.
8. On November 26, 2013, Claimant filed a hearing request, protesting her FIP case closure. See Exhibit 1.

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.

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 (October 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 (July 2013), p. 9. Good cause is determined during triage. BEM 233A, p. 9. 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.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229 (July 2013), p. 6.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was deferred from the PATH program, however, on October 1, 2013, the Department sent Claimant a PATH Appointment Notice informing her to attend her scheduled orientation on October 14, 2013. See Exhibit 1. The Department erred in sending Claimant to the proper PATH location and on October 14, 2013, the Department sent Claimant a new PATH Appointment Notice informing her to attend her scheduled orientation on October 21, 2013. See Exhibit 1. Claimant failed to attend her scheduled orientation. On November 15, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on November 21, 2013. Exhibit 1. Also, on November 15, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective December 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1. Claimant failed to attend the triage appointment on November 21, 2013 and the Department testified that it determined no good cause for her non-compliance.

The Department testified that Claimant contacted it on October 25, 2013 and stated she could not locate a document indicating she had court for her scheduled orientation on October 21, 2013. See Hearing Summary, Exhibit 1.

At the hearing, Claimant testified that she went to the PATH orientation that was first scheduled on October 14, 2013. Claimant testified she was instructed by the PATH program that it was the wrong location and to go back to her DHS caseworker for a correction. On October 14, 2013, Claimant testified she went to her DHS office and obtained her rescheduled PATH orientation for October 21, 2013. Then, Claimant testified that once she arrived home, she had a court date on the same date as her PATH orientation. On October 14, 2013, Claimant testified she called her DHS caseworker and stated she could not attend due to another court date and she sought to have her orientation rescheduled. Claimant testified she told the caseworker she did not have the court paperwork because it was sent to an old address listed on her driver's license. However, Claimant testified she told the DHS caseworker she would bring in the paperwork after her court date.

On October 21, 2013, Claimant testified that she brought her documentation to the Department. However, the Department presented evidence showing that Claimant submitted documentation on October 22, 2013. See Exhibit 1. A review of the submitted documentation shows that Claimant provided a handwritten note stating she will provide proof of her court date on October 21, 2013. See Exhibit A. Also, Claimant provided another document showing she also had a pre-trial scheduled on December 2,

2013. See Exhibit A. This scheduled pre-trial document was dated October 21, 2013. See Exhibit A.

Additionally, on October 25, 2013, Claimant testified she spoke to her caseworker and re-explained all of the testimony as shown above. Finally, Claimant testified that she never received the Notice of Noncompliance, which scheduled her for a triage appointment on November 21, 2013. Claimant testified that her address was changed to a P.O. Box and she has kept notifying the Department of this mailing address change since October 2013.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective December 1, 2013, ongoing. The Department found Claimant to be in noncompliance based on her failure to attend the scheduled PATH appointment. However, Claimant provided credible testimony and evidence that she contacted the Department ahead of her scheduled orientation to state that she could not attend because of a court appointment. Good cause includes credible information of an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 6. Claimant's court date was an unplanned event or factor which prevented her in attending the scheduled orientation on October 21, 2013. Claimant's credibility is supported by the fact that she provided documentation in regards to her court date on October 22, 2013. See Exhibits 1 and A. Claimant provided a pre-trial notice that was dated October 21, 2013. See Exhibit A. This was the same day as Claimant's scheduled orientation. Based on this information, Claimant provided credible testimony and evidence of a valid reason for the noncompliance. BEM 233A, p. 6. The Department will reinstate her FIP benefits effective December 1, 2013, ongoing.

DECISION AND ORDER

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 did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits effective December 1, 2013, ongoing.

Accordingly, the Department's FIP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove Claimant's first FIP sanction from her case;
2. Reinstate Claimant's FIP case as of December 1, 2013, ongoing;
3. Begin recalculating the FIP budget for December 1, 2013, ongoing, in accordance with Department policy;

4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from December 1, 2013, ongoing; and
5. Notify Claimant in writing of its FIP decision in accordance with Department policy.



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

Date Signed: January 13, 2014

Date Mailed: January 13, 2014

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]