

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

IN THE MATTER OF:



Reg. No.: 2014-24144
Issue No(s): 1008, 3001
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant, and [REDACTED] husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Specialist (FIS) Worker, [REDACTED] Triage Specialist, [REDACTED] Assistance Manager, and [REDACTED] Case Manager.

ISSUES

Did the Department properly close and sanction Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

Did the Department properly close the Claimant's Food Assistance Program (FAP) case due to assets in excess of program limits?

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's husband was a mandatory PATH participant for the FIP group to receive ongoing benefits.
2. On January 17, 2014, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on disruptive/abusive behavior.
3. On January 17, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective February 1, 2014 due to an alleged violation of the PATH program requirements and the FAP case would

close effective February 1, 2014 because the value of countable assets is greater than allowed for this program.

4. On January 28, 2014, Claimant filed a request for hearing contesting 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), 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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Additionally, FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each work eligible individual in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A

A Work Eligible Individual (WEI) and non-WEI¹, who fails to participate in employment or self-sufficiency-related activities without good cause, must be penalized. Depending on the case situation, penalties include the following: delay in eligibility at application; ineligibility (denial or termination of FIP with no minimum penalty period); case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM 233A.

Noncompliance of applicants, recipients, or member adds includes, without good cause threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity. BEM 233A.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is determined based on the best information available during the triage and prior to the

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233 A.

The Department asserts that on January 13, 2014, Claimant's husband exhibited disruptive and abusive behavior at the Work First/PATH office. Specifically, the alleged behavior included Claimant's husband threatening to come back to the PATH office with a bat because he does not have a gun. The alleged behavior was documented by the staff member working at the reception desk, who was not able to participate in the hearing proceedings herself. (Exhibit A, pages 17-18) The alleged behavior was also witnessed by a Case Manager, who testified she was going to the front desk for an unrelated matter, saw Claimant's husband being assisted but looking upset and frustrated. The Case Manager explained that she did not see security personnel nearby so she stayed. The Case Manager testified she heard Claimant's husband say he would be back with a bat because he did not have a gun. A triage meeting was held with Claimant's husband on January 28, 2014 and no good cause was found.

Claimant's husband testified he did not make the alleged threat. Claimant's husband explained he had words with the lady at the counter, who was being very belligerent to him. Claimant's husband explained what he said was only that he understood why people get beat down when they try to see somebody, and not that he was going to go get a baseball bat. Claimant's husband testified he does not have a baseball bat, so he would not have said he was going to come back with one. Claimant's husband stated he was upset and frustrated because he had been trying to reach his case manager for two weeks and his messages were not being returned. Claimant's husband explained he was trying to protect the income he receives, and he had just completed a computer program. Claimant's husband asserted someone else who saw the incident warned him to contact his social worker in the morning because the PATH office would make it look like he was the villain.

Claimant testified that while she was not at the PATH office on January 13, 2014 to witness what occurred, it sounds like both parties were wrong. Claimant stated it is hard for her to believe her husband would actually say the alleged threat. Claimant and Claimant's husband noted that Claimant's husband was not approached by security at the PATH office that day and that the Department did not present any witnesses of the incident before this hearing.

The evidence is sufficient to find Claimant's husband's behavior on January 13, 2014 at the Work First/PATH office was disruptive and abusive. The Department presented documentation from the PATH case record and testimony from a Case Manager who witnessed the incident. It was uncontested Claimant's husband was upset and frustrated. Further, Claimant's husband's own testimony acknowledged that he had words with the lady at the counter, which at the least included his expression of understanding as to why people get beat down. The Claimant has not provided sufficient evidence to establish good cause for disruptive behavior on January 13, 2014. Accordingly, the closure and sanction of the Claimant's FIP case based on her husband's noncompliance with the PATH program requirements is upheld.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. The FAP asset limit is \$5,000. For FAP, the Department is to exclude only one homestead for an asset group. However, a homestead that an owner formerly lived in, but is absent from, can also be excluded for FAP when the absence is for certain specified reasons which include: vocational rehabilitation training; and temporary absence due to employment, training for future employment, illness, or a casualty (example: fire) or natural disaster. BEM 400

The FIS Worker testified that Claimant and her husband have a second home. When the FIP case was open, the Department was able to not count the second home as an asset. When the FIP case closed, the property then had to be counted as an asset for the FAP case. The FIS Worker testified the fair market value of the second home was \$[REDACTED] which exceeds the \$5,000 asset limit for the FAP program.

No evidence was presented contesting the value of the second property. Under the above cited BEM 400 policy, the value of the second home was properly counted as an asset when there was no longer participation in the PATH program. The determination to close the FAP case based on assets in excess of the program limit is also upheld.

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 and sanctioned the Claimant's FIP case based on her husband's noncompliance with the PATH program requirements and when it closed the Claimant's FAP case based on assets in excess of program limits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 28, 2014

Date Mailed: February 28, 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

CL/hj

cc:

