

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25275
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Wayne - 43

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 March 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included JET Case Manager [REDACTED] [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits?

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 on-going recipient of FIP (cash assistance) benefits.
2. On January 7, 2014, the Department mailed to Claimant a Notice of Non-Compliance informing her that she "refused or failed to participate as required in employment and/or self-sufficiency related activities for FIP, RCA, and/or FAP" on January 7, 2014.
3. Claimant was scheduled for a "triage" meeting on January 13, 2014 at the Department, which she did not attend.
4. Because she did not attend the triage, the Department determined that Claimant had not established good cause for her non-participation.
5. The Department issued a Notice of Case Action closing Claimant's FIP effective February 1, 2014 because she failed to participate in the PATH program without good cause.

6. Claimant requested a hearing on January 31, 2014.

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.

The PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.“

“If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH.” BEM 233A p 11 (7/1/13).

Per BEM 233A, “good cause for non-compliance” is based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.”

The critical issue here is whether Claimant established good cause for non-compliance prior to the end of the negative action period. Claimant testified that she did not attend

the January 7, 2014 meeting because she was experiencing pain from an auto accident in September 2013. She then explained that she did not attend the January 13 triage meeting because her car broke down on the way to the meeting. She further testified that, while she was not sure exactly of the timing, she called around the time of the appointment to explain that she would not be attending. Claimant's credibility is questionable. Case notes from the Department (Exhibit 2 Page 4) report that she "neither called nor showed up." They also report that, rather than missing the January 7 meeting because of pain, she did not attend because of "lack of transportation."

Claimant testified that she has been previously sanctioned for failing to participate in PATH. The Department stated in the Notice of Non-Compliance (Exhibit 1 Pages 3-4) that this is her first sanction.

It must be noted that, while the Department provided enough evidence to persuade the undersigned that the Claimant did not comply with the PATH program and that she did not have good cause for her non-compliance, it did not produce readily-available evidence that would have allowed the Department to present its case in a more compelling and efficient manner. Particularly, it did not provide a Notice of Case Action that explained the adverse action that was taken, when it was taken, and why it was taken. It did not provide documentation explaining what she did (or did not do) that the Department determined was a "failure to participate in work related activities (PATH)." It did not initially provide case notes reflecting Claimant's contact with the Department – that information was elicited during the hearing and the Department was allowed to fax in documentation after the hearing. The Department is encouraged to prepare its cases by submitting documents that provide essential details regarding the actions taken by the Department, dates the actions were taken, and the reasons behind the action.

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 determined that Claimant failed to comply with the training requirements.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 7, 2014

Date Mailed: March 7, 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

DTJ/las

cc:



