

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

IN THE MATTER OF:



Reg. No.: 2014-25462
Issue No(s): 1008, 3008
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Marquette 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 March 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Family Independence Specialist, [REDACTED] [REDACTED] PATH Coordinator, and [REDACTED] [REDACTED] PATH Coordinator.

ISSUES

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

Did the Department properly decrease the Claimant's FAP group's monthly allotment due to the FIP sanction?

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 a recipient of FIP benefits and a mandatory PATH participant.
2. Claimant was a recipient of FAP benefits.
3. On December 5, 2013, the Department mailed Claimant a letter of Noncompliance (DHS-2444) based on falsifying weekly activity log and not completing required hours or planned activities.
4. On December 10, 2013, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective January 1, 2014 due to an

alleged violation of the PATH program requirements and that the FAP monthly allotment would decrease to \$ [REDACTED] for the group as the Claimant was no longer eligible due to the FIP non-compliance.

5. On December 10, 2013 and December 19, 2013, Notices of Noncompliance were issued to Claimant based on not participating in required activity with a December 5, 2013 non-compliance date.
6. On January 28, 2014, the Claimant filed a request for hearing contesting the Department's action.

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).

FIP

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.

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 (WEI) 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 WEI and non-WEIs¹, 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, failing or refusing to: provide legitimate documentation or work participation, participate

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

in employment and/or self-sufficiency-related activities; and participate in required activity. BEM 233A.

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. The policy lists several circumstances for good cause, including the client having a debilitating illness or injury. 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 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.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements due to falsifying weekly activity log and not completing required hours or planned activities.

The Claimant had been determined work ready with limitations by the Medical Review Team on August 13, 2013. (Exhibit A, page 7) The Claimant was referred to PATH with an appointment date of September 3, 2013. (Exhibit A, page 9) On October 16, 2013, Claimant was sent a Noncompliance Warning Notice based on a failure to timely submit weekly participation. (Exhibit A, page 10) Claimant then signed a Reengagement Agreement on October 21, 2013 agreeing to complete activities as assigned, turn in documentation as required, contact the program if she needs supportive services and comply with the requirements of the program. (Exhibit A, page 11)

On December 5, 2013, the Department mailed Claimant a Letter of Noncompliance (DHS-2444) based on falsifying weekly activity log and not completing required hours or planned activities. (Exhibit A, page 12) On December 10, 2013 and December 19, 2013, Notices of Noncompliance were issued to Claimant based on not participating in required activity with a non-compliance date of December 5, 2013. (Exhibit A, pages 23-26) Specifically, the Department asserts Claimant falsified applications on the log and therefore did not complete her required hours. The Department contacted the potential employers for three of the applications Claimant indicated she had submitted on November 25, 2013 on her job search log. These three potential employers reported there was no application on file for Claimant. (Exhibit A, page 14) A triage meeting was held with Claimant on December 26, 2013, and the Department did not find good cause for the non-compliance. (Exhibit A, pages 28 and 30)

Claimant asserted she gave notice from her doctor that she was having difficulties. The doctor first reduced Claimant's hours from 30 hours per week to 20 hours per week. Then, Claimant asserts she provided a doctor's note that she started a new medication. Claimant asserts she was telling the PATH Coordinator and the Family Independence

Specialist that she was having problems and asked what she could do, including how to handle new impairments. The Claimant understood that there was nothing more that could be done about the required hours. Claimant submitted documentation, including a November 25, 2013 letter from Claimant's doctor excusing her oversleeping on November 25, 2013 day due to medication adjustments. (Exhibit 1, page 2) Additionally, print outs of medications she takes and their side effects were provided. (Exhibit 1, page 3-32) Claimant acknowledged she had not previously provided that kind of documentation regarding the side effects from all of her medications.

Regarding the alleged falsified applications on the log, Claimant testified she was forgetting a lot of things at that time. If the applications were not actually turned in, it was just that she forgot. Claimant is not sure if she actually did turn in the applications at issue for the alleged non-compliance.

The Family Independence Specialist credibly testified that she explained to Claimant that documentation from the doctor is needed to consider any additional impairments and/or limitations. The case note from November 2, 2013 shows that the Department did reduce Claimant's required hours to 20 per week when they received a doctor's note. (Exhibit A, page 34) The November 25, 2013, case note documents Claimant reported oversleeping due to a new medication by voicemail. (Exhibit A, page 32) There was no documentation the November 25, 2013 letter from Claimant's doctor was ever submitted. However, the PATH Coordinator testified Claimant was given some leeway for the medication adjustment and was not penalized for being late. It is also noted that the November 25, 2013 doctor's letter did not state that Claimant's PATH hours needed to be further reduced nor that there were new impairments that affected Claimant's ability to participate in PATH, beyond some medication adjustments that cause oversleeping that date.

The Claimant has not provided sufficient evidence of good cause for the non-compliance of falsifying applications on the job log and therefore not completing required hours. The Claimant's testimony does not establish the applications were actually submitted. Rather Claimant testified she is not sure if she actually submitted these three applications. The case note from November 2, 2013 indicates that when additional medical documentation was received, it was appropriately considered, specifically Claimant's required hours were reduced to 20 per week when a doctor's was received. (Exhibit A, page 34) Further, the evidence does not establish Claimant documented any additional specific limitations or new impairments for the Department to have another Medicaid Review Team assessment of Claimant's ability to participate with PATH, or to further review the number of required hours for PATH participation. Accordingly, the closure and sanction of the Claimant's FIP case based on her noncompliance with the PATH program requirements is upheld.

FAP

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, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the two situations, one of which is when client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233 B.

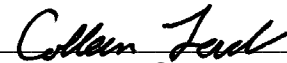
A FAP group member is disqualified for noncompliance when all the following exist: the client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance; the client did not comply with FIP/RCA employment requirements; the client is subject to a penalty on the FIP/RCA program; the client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B); and the client did not have good cause for the noncompliance. BEM 233 B.

In this case, Claimant was active for both FAP and FIP on the date of noncompliance; Claimant did not comply with the FIP employment requirements for PATH; Claimant is subject to a penalty for FIP; the Claimant was not deferred from FAP work requirements; and good cause has not been established for Claimant's non-compliance. Accordingly the determination to disqualify Claimant from the FAP group, resulting in the decrease in the FAP group's monthly allotment, is 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 noncompliance with the PATH program requirements and when it reduced Claimant's FAP group's monthly allotment based on the FIP sanction.

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: March 14, 2014

Date Mailed: March 14, 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:

