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

IN THE MATTER OF:

Reg. No.:	2014-27262
Issue No(s).:	1008
Case No.:	
Hearing Date:	March 13, 2014
County:	Wayne (31) & (41)

ADMINISTRATIVE LAW JUDGE: SUSAN C. BURKE

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 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ███████████, Assistance Payment Worker and ███████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to participate in employment related activities?

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.   On November 15, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to appear on November 25, 2013.

3.   Claimant failed to appear for the PATH appointment, and on December 4, 2013, the Department sent Claimant a Notice of Noncompliance which set a meeting date of December 12, 2013.

4. Claimant appeared at the December 12, 2013 meeting and informed the Department that she did not receive the PATH appointment notice because she had moved.

5. The Department found that Claimant established good cause for her failure to attend the November 25, 2013 PATH appointment.

6. On December 12, 2013, the Department sent Claimant a second PATH Appointment Notice instructing her to appear on December 23, 2013.

7. Claimant failed to attend the PATH appointment of December 23, 2013.

8. On December 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective February 1, 2014 because she failed to participate in employment and/or self-sufficiency-related activities.

9. On January 2, 2013, the Department sent Claimant a second Notice of Noncompliance which set a meeting date for January 9, 2014.

10. Claimant appeared at the January 9, 2014 meeting.

11. At the January 9, 2014 meeting, the Department found that Claimant did not have good cause for failing to attend the December 23, 2013 PATH appointment.

12. On February 11, 2014, Claimant requested a hearing, disputing 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 MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Department requires Work Eligible Individuals (WEI) seeking FIP to participate in employment and self-sufficiency-related activities. BEM 233A, p. 1 (7/13) Failing, without good cause, to participate in employment or self-sufficiency-related activities results in the WEI being penalized. *Id.* Good cause is a valid reason for noncompliance that is based on factors that are beyond the control of the noncompliant person. *Id.*

PATH participants will not be terminated from a program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.* Good cause must be based on the best information available at the triage and must be considered even if the client does not attend the triage. *Id.*

In this case, Claimant was given good cause for failing to attend the November 25, 2013 PATH Appointment as she had moved and the appointment location was too far for her to attend. The testimony was diametrically opposed as to why Claimant failed to attend the December 23, 2013 PATH appointment. The Department testified that Claimant provided no reason as to why she failed to attend the second appointment. The Claimant testified that she appeared at the January 9, 2014 meeting and informed her assigned worker that she attempted to attend the December 23, 2013 appointment but discovered that her car was inoperable.

It seems unlikely that the Claimant would have traveled to the January 9, 2014 meeting only to provide no reason for her failure to attend the December 23, 2013 PATH appointment. Additionally, the Department representative at the hearing acknowledged that any response or lack thereof by the Claimant at the January 9, 2014 meeting would have been likely captured in the case notes, which notes were not provided at the hearing. It is therefore found that Claimant established good cause for her failure to attend the December 23, 2013 PATH appointment, as she lacked transportation.
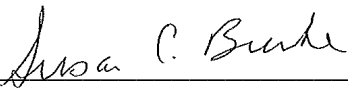
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP case.

DECISION AND ORDER

Accordingly, the Department's 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 the PATH noncompliance sanction entered on or about December 31, 2014, from Claimant's record;

2. Reinstate Claimant's FIP case effective February 1, 2014; and

3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from February 1, 2014 ongoing.

2014-27262/SCB

Susan C. Burke

SUSAN C. BURKE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: <u>March 18, 2014</u>

Date Mailed: <u>March 19, 2014</u>

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

SCB/tm

cc: