

**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.: 2014-30001
Issue No(s): 1008
Case No.: ██████████
Hearing Date: March 27, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case based on a 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 previously deferred from participating in the PATH program.
3. On February 1, 2014, the Department sent Claimant a PATH Appointment Notice instructing her to attend the PATH program for orientation on February 10, 2014. (Exhibit 1)
4. On February 21, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on February 27, 2014, to discuss whether good cause existed for her noncompliance. (Exhibit 2)

5. On February 21, 2014, the Department sent Claimant a Notice of Case Action informing her that effective April 1, 2014, her FIP case would be closing and a three month sanction imposed, based on a failure to participate in employment related activities without good cause. (Exhibit 4)
6. On February 27, 2014, Claimant submitted a hearing request 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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (July 2013), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. BEM 233A, pp. 4-6.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the

client was determined to be noncompliant; and the penalty duration. BEM 233A. p.9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (January 2014). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, Claimant was previously deferred from participating in the PATH program due to her pregnancy. The Department testified that because Claimant's deferral had ended, she was now required to meet the requirements of the PATH program and was instructed to attend PATH orientation on February 10, 2014. (Exhibit 1). The Department testified that Claimant attended orientation on February 10, 2014, and informed her PATH worker that she was unable to stay because she had to go to work. The Department further testified that Claimant's PATH worker informed Claimant that she could attend orientation again on Monday, February 17, 2014.

The Department stated that Claimant's PATH worker later called Claimant and informed her that Monday, February 17, 2014, was a state holiday and that her orientation would now be held on Tuesday, February 18, 2014. The Department testified that because Claimant did not attend orientation on February 18, 2014, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on February 27, 2014, to discuss whether or not she had good cause for her failure to attend PATH. (Exhibit 2).

A triage was conducted on February 27, 2014, which Claimant attended. At the triage, relying on the case notes from Claimant's PATH worker, the Department concluded that Claimant did not have good cause for her failure to attend PATH orientation on the rescheduled date of February 18, 2014, and initiated the closure of Claimant's FIP case, effective April 1, 2014. (Exhibits 3 and 4).

At the hearing, Claimant testified that on February 10, 2014, at her first orientation, she was informed by her PATH worker that PATH orientations were only held on Mondays and that she should return on Monday, February 17, 2014, to complete orientation. Claimant stated that she went to the PATH program on Monday, February 17, 2014, and found the building closed due to the state holiday. Claimant further testified that she returned to PATH the following Monday, February 24, 2014, and was told that she needed to get another referral from the Department in order for her to complete the

orientation process. Claimant stated that she never received a phone call from her PATH worker informing her that the orientation was rescheduled to Tuesday, February 18, 2014.

A review of the case notes presented by the Department reveals that the telephone number listed as the one called by Claimant's PATH worker was not the telephone number on file for Claimant. Additionally, the PATH worker was not present for the triage meeting or the hearing to refute Claimant's testimony that she did not receive a phone call and was not aware that her orientation date was rescheduled. (Exhibit 3).

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant did not have good cause for her failure to participate in employment related activities, closed Claimant's FIP case and imposed a three month sanction.

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 sanction that was imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective April 1, 2014;
3. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from April 1, 2014, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]