

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-30044
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Alpena-Alcona 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 27, 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] Hearing Facilitator and Assistance Payments Supervisor, [REDACTED] [REDACTED] Family Independence Specialist, and [REDACTED] [REDACTED] Case Manager Trainer with Michigan Works.

ISSUE

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?

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 had a first non-compliance without good cause and was previously sanctioned from March 1, 2013 through May 31, 2013.
3. On February 18, 2014, a Notice of Noncompliance was issued to Claimant based on quitting or being fired from job.
4. On February 18, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective April 1, 2014 due to an alleged violation of the PATH program requirements.

5. On February 26, 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).

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: participate in employment and/or self-sufficiency-related activities and participate in required activity. Refusing suitable employment includes quitting a job (unless PATH verifies the change in jobs or reduced hours was to participate in a PATH approved education and training program) or being fired for misconduct or absenteeism (not for incompetence). BEM 233A.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that is based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for

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

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 excessive absenteeism and not showing/calling for scheduled shifts at her Work Experience Program (WEP) site, causing her to be terminated from the WEP site. It is noted that there were errors on the February 18, 2014 Notice of Noncompliance and Notices of Case Action as this was an alleged second non-compliance, which would result in a 6 month sanction. (Exhibit A, pages 62-63 and 67-68)

On January 16, 2014, Claimant signed WEP Rules and Regulations as well as a Training Agreement for the WEP site, Alpena Senior Center, with training to begin on January 19, 2014. (Exhibit A, pages 39-40) On February 3, 2014, Claimant reported she had been seen at her doctor's office and an off-work slip would be faxed in. (Exhibit A, pages 52-53) On February 6, 2014, a Noncompliance Warning Notice was issued to Claimant because a doctor's note had not yet been received, but additional time was allowed due to fax transmission issues. (Exhibit A, page 41) On February 7, 2014, the doctor's note was received indicating Claimant could participate with limitations. (Exhibit A, page 42) The Department noted that the documented limitations were accommodated by the WEP site. Therefore, Claimant was 19 hours short of required participation for the week of February 1, 2014 through February 8, 2014. (Exhibit A, pages 54-57) On February 10, 2014, Claimant signed a PATH Reengagement Agreement 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 43)

On February 11, 2014, Claimant called in sick to the WEP site. It was noted claimant had already exhausted her excused time for the month. (Exhibit A, page 58)

On February 18, 2014, the WEP site reported Claimant did not show or call in for her 8:00 am shift on February 17, 2014 and had not shown on time for her shift on February 18, 2014. (Exhibit A, pages 59-60) Accordingly, on February 18, 2014 the Notice of Noncompliance and Notice of Case Action were issued to Claimant based on noncompliance with the PATH program requirements. A triage meeting was held with Claimant by telephone on March 3, 2014, during which Claimant asserted she did call in on February 17, 2014 and she had phone records at her house. The Claimant had not provided any phone records at or before the triage meeting; therefore the Department did not find good cause for the non-compliance. (Exhibit A, pages 60-61)

Claimant testified she did call in to the WEP site on February 17, 2014. Claimant explained she was unable to obtain phone records to document this. The cell phone company told her they do not keep these logs and the only way to get them would be through a supervisor. Claimant spoke with a supervisor, but because the phone is not in her name Claimant cannot obtain the records herself. Claimant asked the person whose name is on the phone account, but he would not give authorization for Claimant to obtain the records. Claimant also asserted that she was not late on February 18, 2014. Rather Claimant arrived after her weekly appointment at Michigan Works. Claimant explained that she usually had these meetings on Monday mornings, but due to the February 17, 2014 holiday the meeting that week was moved to Tuesday February 18, 2014.

The Department has presented sufficient evidence to establish that Claimant was non-compliant with PATH program requirements in February 2014 without good cause. Claimant has not provided any documentation to support her testimony that she called in to the WEP site on February 17, 2014. Claimant's testimony is not found to be fully credible. For example, the Department documented that during the triage meeting Claimant reported she already had the phone records at home. Additionally, the Claimant's had reported that her doctor was writing an off work slip, but the doctor actually documented that Claimant could participate with limitations. The Department's determination that Claimant was non-compliant with PATH program requirements in February 2014 without good cause is upheld and a sanction may be applied in accordance with Department policy.

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 FIP case for noncompliance with the PATH program requirements.

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: April 4, 2014

Date Mailed: April 4, 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:

