

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 201430046
Issue No.: 1008
Case No.: ██████████
Hearing Date: March 31, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Shannon Wright. Participants on behalf of the Department of Human Services (Department) included ██████████, FIS, and ██████████, PATH Coordinator.

ISSUE

Did the Department properly close claimant's FIP case and sanction claimant for 3 months for PATH noncompliance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact: Claimant was an FIP recipient in Wayne County, and a PATH participant.

- (1) Claimant allegedly failed to report to the PATH program on February 11, 2014, which triggered a reengagement on February 18, 2014 and a subsequent triage on February 27, 2014.
- (2) Claimant actually attended PATH on February 11, 2014, but was turned away for having her child with her.
- (3) The PATH meeting claimant failed to attend on February 11, 2014 was only to drop off paperwork at the front desk, and did not have any meeting or classwork.

- (4) Because claimant had her child with her on February 11, 2014, claimant was not allowed in the door and was not allowed to drop off her paperwork.
- (5) Due to unforeseen circumstances, claimant was not able to secure child care for February 11, 2014.
- (6) Claimant's missed hours included the previous week of job search.
- (7) Claimant had actually performed the job search, but was not allowed to turn in the paperwork because she had her child with her.
- (8) Claimant was mailed a DHS-2444 on February 18, 2014.
- (9) On February 27, 2014, the triage was held; claimant attended the triage.
- (10) The Department held at the triage that claimant did not have good cause for missing the PATH dates in question.
- (11) Claimant was deemed noncompliant with the PATH program.
- (12) This was claimant's first incident of noncompliance.
- (13) Claimant's case was pended to close, with a sanction period of 90 days.
- (14) On February 28, 2014, claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Partnership, Accountability, Training, and Hope (PATH) program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called "noncompliance." BEM 233A defines noncompliance as failing or refusing to, without good cause:

"...Appear and participate with the Partnership, Accountability, Training, and Hope (PATH) program or other employment service provider..." BEM 233A pg. 1.

However, a failure to participate in work related-activities can be overcome if the client has "good cause." Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the individual. BEM 233A. A claim of good cause must be verified and documented.

BEM 233A states that:

"Good cause includes the following...

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities...."

The penalty for noncompliance is FIP closure. BEM 233A.

Furthermore, PATH participants can not be terminated from a PATH program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. BEM 233A.

At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A. Good cause can be verified by information already on file by MWA or DHS.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to PATH, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Good cause is a valid reason for non-participation that is based upon factors beyond the control of the individual. Claimant was unable to find child care before her February 11, 2014 PATH meeting date, due to unforeseen circumstances. This was not disputed by the Department, and the undersigned found claimant credible given other parts of her testimony was confirmed by the Department.

The undersigned finds that the Department has proven that claimant was non-participatory. The noncompliance warning notice, Department Exhibit 2, shows that claimant missed a required meeting, which is non-participation per BEM 233A.

However, per claimant and Department testimony, the reason for the missed meeting was that claimant was turned away at the door. Claimant was unable to secure child care for her child, and attempted to bring the child with her to PATH to avoid neglect. The meeting in question was not a meeting per se; claimant was only scheduled to drop off paper work that day. Because claimant had her child with her, claimant was not allowed to turn in the paperwork in question, which led to the noncompliance. All subsequent issues stemmed from this incident, and thus, this incident is the primary one to be examined by the undersigned.

At the triage, the Department did not appear to dispute whether claimant was able to find child care; no dispute was raised at the hearing either. However, claimant was not given good cause for her missed dates because claimant had never applied for child care benefits.

While this may be true, the undersigned does not believe that the incident in question falls under the lack of child care exception, but rather the unplanned event exception. Claimant did not plan for a lack of child care, and appeared to conduct due diligence in attempting to secure child care; last minute events prevented her from securing child care.

Furthermore, given that claimant's alleged offense was not a meeting per se, but rather, failing to turn in paperwork, and as claimant attempted to turn in the paperwork in question, and as all other requirements had been met, the undersigned is loath to find noncompliance for such a trivial matter that could have been avoided had PATH officials simply allowed claimant to drop off her paperwork at the front desk, child or not. As such, the Department was in error to refuse claimant good cause for missing the PATH program during the dates in question, because the absence was due to an unplanned event.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did not act properly when closing claimant's case and applying the sanction in question. Claimant had good cause for her non-participation with work-related activities.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the negative action and sanction in question from the claimant's file, restore all benefits retroactive to the date of negative action, and reschedule claimant for PATH classes.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 14, 2014

Date Mailed: April 14, 2014

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/tm

cc: [REDACTED]
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[REDACTED]
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