

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-33079
Issue No(s): 1008, 3008
Case No.: [REDACTED]
Hearing Date: April 17, 2014
County: Clare 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 April 17, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist Case Manager, [REDACTED], PATH Coordinator, and [REDACTED], Career Transition Coordinator with Michigan Works.

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 March 13, 2013, the Department mailed Claimant a letter of Noncompliance (DHS-2444) based on not participating in required activity.
4. On March 13, 2013, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 6 months effective April 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 March 25, 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 in employment and/or self-sufficiency-related activities; and participate in required activity. BEM 233A.

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

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 not participating in required activity. Specifically, failing to complete required hours in the month of February 2014, not meeting hours for the week of March 2, 2014, and not providing medical documentation verifying why he needed to be excused from required activities for those dates. The Department had received multiple copies of the DHS-54-E Medical Needs-PATH form from Claimant's doctor documenting that Claimant was able to work with limitations. (Exhibit A, pages 19-33) On March 13, 2013, the Department mailed Claimant a Letter of Noncompliance (DHS-2444) based on not participating in required activity. (Exhibit A, pages 3-4)

A triage meeting was held with Claimant on March 25, 2014, and the Department did not find good cause for the non-compliance. On March 28, 2014, a note from a doctor was provided to the Department that indicated restrictions with pushing, pulling and lifting no more than 20 pounds, but did not document Claimant was unable to work. (Exhibit A, page 82)

Claimant asserts he has been unable to participate. Claimant stated that when he did participate, the pain was very severe after five hours. Claimant's testimony indicated he had difficulty getting in to see his doctor. Claimant submitted a March 31, 2014 note from his doctor indicating he will be unable to work for 30 days as of March 31, 2014, and also stating there was a no work period of four weeks starting February 26, 2014.

The Claimant has not provided sufficient evidence of good cause for the non-compliance of not participating in required activity. The January 16, 2014 DHS-54A Medical Needs-PATH form indicates Claimant was able to participate with limitations. (Exhibit A, pages 21-33) Even the March 28, 2014 doctor note only documents restrictions with pushing, pulling and lifting no more than 20 pounds, and did not state Claimant was unable to work. (Exhibit A, page 82) The Career Transition Coordinator with Michigan Works credibly testified they were able to accommodate the limitations. Further, even if the most recent note stating a work stop period began on February 26, 2014 was found to be sufficient, this does not provide good cause for failing to complete required hours earlier in the month of February 2014. Accordingly, the closure and sanction of the Claimant's FIP case based on his 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 his 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: May 2, 2014

Date Mailed: May 2, 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:

