

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:
Issue No(s):
Case No.:
Hearing Date:
County:

[REDACTED]

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

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 [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIM, [REDACTED] Community Resource Manager, [REDACTED] FIS, [REDACTED] Payments Worker, [REDACTED] PATH Triage Specialist, and [REDACTED] Career Developer.

ISSUE

Did the Department properly terminate Claimant's FIP benefits?

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 fired from her community service position working in the DHS lobby and fired on [REDACTED].
2. [REDACTED] terminated Claimant for allegedly getting into two verbal altercations on [REDACTED].
3. [REDACTED] observed a client repeatedly turning around to say things to Claimant, to tell her not to laugh at him and at one point to threaten Claimant with physical harm.

4. ██████ assumed that Claimant must have been doing something wrong for the client to act like this toward him, but he did not observe Claimant doing or saying anything improper.
5. Claimant did not laugh at the client or say anything improper.
6. A client called that day and told ██████ that Claimant was rude.
7. On ██████, the Department sent Claimant a Notice of Noncompliance, advising him of a triage on ██████.
8. No good cause for noncompliance was found because Claimant argued during the triage and because of multiple complaints.
9. Claimant requested a hearing regarding FIP, MA, and CDC
10. The Department has not taken negative action regarding Claimant's MA, nor had Claimant received nor applied for CDC.

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.

Additionally, Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (p. 9. Good cause is determined during triage. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination,

unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 3-5.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, members add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229 p. 6.

Here, the evidence does not support a finding that Claimant was noncompliant with PATH. Claimant did not quit the assignment but was terminated. ██████ observed no wrongdoing on the part of Claimant, and the allegation that she must have said something inappropriate to the client is speculative. Indeed, the client threatened Claimant with physical harm and was not acting reasonable. Concerning other complaints, the Department relied on hearsay.

The Department has not shown that it properly determined that Claimant was noncompliant without good cause. Comments by the Department on the Hearing Summary suggest that the Department found no good cause in part because Claimant disagreed with ██████ and had not been successful at another assignment. Neither of these allegations addresses PATH noncompliance for the termination at issue.

The Department also alleged that Claimant was noncompliant with PATH for other reasons that did not lead to her termination. The issue is not why Claimant could theoretically have been terminated but why she actually was terminated and whether the Department met its burden of proof.

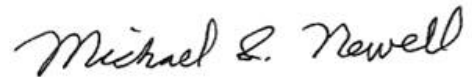
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Claimant's FIP.

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. Reinstate benefits to the closure date and redetermine eligibility.



MICHAEL S. NEWELL
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:

2014-33883/MSN

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

MSN/nr

cc:

