

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

IN THE MATTER OF:



Reg. No.: 20144884
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to comply with employment-related activities?

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. In August 2013, the Medical Review Team (MRT) denied Claimant's request for a deferral from the PATH program, finding that she was not disabled and able to work with limitations.
3. On August 13, 2013, the Department sent Claimant a PATH Appointment Notice, referring her to a PATH orientation on August 20, 2013.
4. Claimant called the Department prior to August 20, 2013 requesting day care assistance for her [REDACTED] child.

5. Claimant attended the August 20, 2013 PATH orientation with her son and was denied admission.
6. On September 3, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her of her noncompliance and scheduling a triage on September 9, 2013, and (ii) a Notice of Case Action notifying her that her FIP case would close effective October 1, 2013, because she had failed, without good cause, to comply with employment related activities.
7. Claimant attended the September 9, 2013, triage.
8. The Department held the triage and concluded that Claimant had no good cause for her failure to attend the PATH orientation.
9. The Department sanctioned Claimant's FIP case for closure for three months.
10. On October 2, 2013, Claimant filed a request for hearing 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.

Additionally, as a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client's failure to attend or participate in a work participation program or other employment service provider or appear for a scheduled appointment or meeting related to assigned activities constitutes noncompliance with employment-related activities. BEM 233A, pp 1-2.

In this case, MRT denied Claimant's disability-based deferral from participation in the PATH program, and the Department notified Claimant that she had to attend an August 20, 2013 PATH orientation. When the Department was notified that Claimant did not participate in the orientation, it sent her a Notice of Noncompliance scheduling a triage.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors beyond the control of the noncompliant person. BEM 233A, p. 4.

In this case, Claimant testified that she attended the triage and informed the Department that she had attended the September 9, 2013 PATH orientation with her toddler son but was denied admission. She further informed the Department that she had called several times prior to the PATH orientation appointment to request day care assistance for the child but never received a response from the Department.

Good cause for noncompliance includes a lack of day care. BEM 233A, p. 5. To establish good cause based on lack of day care, there must be evidence that the client requested child care services from the Department prior to case closure for noncompliance and child care is needed for an eligible child but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5. The Department worker who participated in the triage was not present at the hearing, and the worker at the hearing was unable to dispute Claimant's testimony. The worker at the hearing pointed out that the PATH Appointment Notice notified Claimant that she could not bring children with her to the PATH orientation. However, the Notice also informed Claimant that the Department could assist her with child care necessary to attend PATH, and she should call her Department specialist if she needed help with child care. Based on Claimant's uncontroverted testimony, Claimant requested day care assistance prior to the PATH appointment, and because the Department did not respond to her request for assistance, Claimant established good cause for her failure to comply with her FIP-related employment activities.

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 did not act in accordance with Department policy when it closed Claimant's FIP case for October 1, 2013 to December 31, 2013 for noncompliance with employment-related activities without good cause.

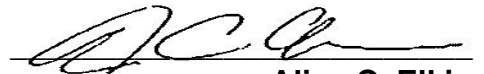
DECISION AND ORDER

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 employment-related sanction applied on or about October 1, 2013 from Claimant's record;

2. Reinstate Claimant's FIP case effective October 1, 2013;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from October 1, 2013 ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 14, 2014

Date Mailed: March 14, 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

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cc:

