

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002018
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: June 5, 2014
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 June 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] along with [REDACTED], Triage Specialist and [REDACTED], PATH Assistant Manager.

ISSUE

Did the Department properly close Claimant's FIP and impose a three month sanction for non-compliance?

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 on-going FIP recipient.
2. On January 8, 2014, Claimant was given a non-compliance warning notice and placed on 120 days probation for not complying with PATH requirements. (Exhibit 1 Pages 17-19.)
3. Claimant was required to submit a written report by March 28, 2014, verifying she had devoted at least 100 hours in job search activities for the month of March 2014, but she did not submit the report.
4. On March 31, 2014, a message was left for Claimant on her telephone regarding the missing report. Claimant did not return the call.

5. On April 2, 2014, a notice was mailed to Claimant that she was to appear at PATH on April 9, 2014 to provide her report. (Exhibit 1 Page 22.)
6. Claimant did not appear for the April 9 appointment.
7. A notice of non-compliance was mailed to Claimant on April 9, scheduling a triage appointment for April 15, 2014.
8. Claimant did not attend the triage appointment.
9. On April 9, 2014, the Department concluded Claimant was in non-compliance with her responsibilities for continuing her FIP and issued a Notice of Case Action (NCA) (Exhibit 1 Page 3-8) closing her FIP.
10. On April 21, 2014, the Department received Claimant's hearing request.

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.

As stated in BEM 233A,

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

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.

If a client does not comply with self-sufficiency activities or work, they can be penalized:

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of

applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with PATH or other employment service provider.
 - * * *
 - Provide legitimate documentation of work participation.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity.

If a client does not comply, they can avoid penalties by showing they had good cause for non-compliance.

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. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

BEM 233A lists a number of examples of good cause, but none of them are arguably applicable here. The Claimant explained that she did not submit her job search report because she had a therapy appointment for her daughter the day it was due. Claimant had weekly appointments for her daughter, and she knew well in advance that her report was due the same day as the therapy appointment. Nonetheless, she did not submit the report on or before the due date. She did not participate in the triage, and thus did not establish good cause for non-compliance.

The penalties for non-compliance are found at page 1 of BEM 233A:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-

sufficiency-related activities, 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.

Claimant was properly subject to the sanction imposed for a first episode of non-compliance.

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 Claimant's FIP and imposed a three month sanction for her first episode of non-compliance.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/6/2014**

Date Mailed: **6/6/2014**

DTJ/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

