

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002826
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: June 18, 2014
County: Marquette

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 five-way telephone hearing was held on June 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and his attorney, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included General Services Program Manager [REDACTED], Family Independence Specialist [REDACTED], and Assistant Attorney General [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) cash 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 an on-going FIP recipient.
2. Claimant's case was reviewed by the Medical Review Team (MRT) and they found he was capable of working with some limitations. (Exhibit 1 Pages 36-39.)
3. A "Quick Note" was mailed to Claimant on March 4, 2014 informing Claimant that he was being referred to the Michigan Works Agency for participation in the PATH program. (Exhibit 1 Page 5.)
4. A PATH appointment notice was also mailed on March 4, 2014, instructing him to report to the Marquette Michigan Works at 8:15 am on March 11, 2014. (Exhibit 1 Page 4.)
5. Claimant did not attend the Michigan Works appointment. (Exhibit 1 Pages 16-17.)

6. On March 24, 2014, the Department mailed to Claimant a Notice of Case Action (NCA) informing him that his FAP would close effective May 1, 2014. (Exhibit 1 Page 8.)
7. Also on March 24, the Department mailed to Claimant a Notice of Noncompliance scheduling a triage meeting at 2:00 pm on April 3, 2014. (Exhibit 1 Page 13.)
8. Claimant did not attend the triage meeting and the Department concluded he had failed to show good cause for his non-compliance with the PATH program.
9. On May 14, 2014, Claimant requested a hearing.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

The PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.“

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH.” BEM 233A p 11 (7/1/13).

Per BEM 233A, “good cause for non-compliance” are based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.”

The critical issue here is whether Claimant established good cause for non-compliance prior to the end of the negative action period. Claimant testified that he did not participate in work related activities because he has medical conditions that prevent him from doing so. Claimant was afforded an opportunity to attend a triage meeting where he could explain his non-compliance, but he did not attend. Claimant testified that he did not receive the triage notice. Claimant testified that he has been having issues with receiving mail, which he has reported to the Sheriff and the Postmaster. Claimant has, however, received other mailings from the Department.

Claimant testified that he did not receive the triage notice and offered that as an explanation for his non-attendance. The Department used the address that the Claimant provided – and which he verified at the hearing. The Claimant has failed to rebut the presumption that he received the Notice. In common-law there is a presumption that letters have been received after being placed in the mail in the due course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). The Claimant did not establish good cause for non-compliance prior to the negative action effective date. In any case, Claimant’s doctor reported that Claimant, despite some physical limitations, could engage in work-related activities. (Exhibit 1 Pages 20-21.)

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 determined that Claimant failed to comply with the training requirements, and that he failed to show good cause for his 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: **6/19/2014**

Date Mailed: **6/19/2014**

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:

