

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-34568
Issue No(s): 1008, 3007
Case No.: [REDACTED]
Hearing Date: June 2, 2014
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on June 2, 2014, from Taylor, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED]
[REDACTED]

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) case and reduce her Food Assistance Program (FAP) 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. On January 27, 2014, the Medical Review Team (MRT) found Claimant capable of "work with limitations."
2. On January 29, 2014, the Department issued a DHS-100 notifying Claimant of the MRT decision and informing her she would be referred to the PATH program.
3. On February 1, 2014, a DHS-4785 PATH appointment notice was sent to Claimant indicating a February 10, 2014, PATH appointment.

4. On February 5, 2014, Claimant contacted the Department regarding a conflicting court date requesting a postponement of her PATH appointment.
5. On February 6, 2014, the Department issued a DHS-4785 PATH appointment notice indicating a new PATH appointment for February 18, 2014.
6. On Tuesday February 18, 2014, Claimant failed to appear for her PATH appointment.
7. On February 22, 2014, a missed appointment notice was issued along with a TRIAGE appointment for March 6, 2014.
8. On February 22, 2014, a notice of case action was issued indicating Claimant's FIP benefits would be terminated and her FAP benefits would be reduced.
9. On March 5, 2014, a phone TRIAGE was conducted during which the Department determined no good cause.
10. On April 14, 2014, Claimant filed a hearing request.
11. On April 22, 2014, a prehearing conference was held with no resolution being reached.

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.

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.

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 (January 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 (January 2013), p. 7. Good cause is determined during triage. BEM 233A, p. 7. 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.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. BEM 233A, p. 7. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 7. The Department determines good cause based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 7. Good cause may be verified by information already on file with DHS or PATH. BEM 233A, p. 7. Good cause must be considered even if the client does not attend. BEM 233A, p. 7.

In the instant case, Claimant had requested a continued deferral from PATH participation. On January 27, 2014, the Department received a non-favorable determination back from MRT. MRT found Claimant capable of "work with limitations." Based upon the MRT determination, the Department issued a DHS-100 on January 29, 2014, notifying Claimant of the MRT decision and informing her she would be referred to the PATH program. A PATH appointment notice was sent to Claimant on February 1, 2014, indicating a PATH appointment on February 10, 2014. On February 5, 2014, Claimant contacted the Department regarding a conflicting court date and requested a postponement of her PATH appointment. On February 6, 2014, the Department issued a DHS-4785 PATH appointment notice indicating a new PATH appointment for February 18, 2014. On Tuesday February 18, 2014, Claimant failed to appear for her PATH appointment.

At hearing, Claimant indicated she had told the Department prior to her February 18, 2014, appointment that she had a new condition to be considered. Claimant was unable to state when exactly she contacted the Department regarding this alleged new condition. Claimant failed to attend the scheduled PATH appointment. The Department provided case notes which indicate the receipt of a call from Claimant's counselor indicating an issue with completing forms. The Department issued a DHS-54A Medical Needs form on February 22, 2014. The Department presented this DHS-54A form at the hearing with a date stamped received date of April 11, 2014. Claimant alleged faxing this document on March 5, 2014, but failed to present any evidence demonstrating the form was faxed on March 5, 2014. On February 22, 2014, a missed appointment notice was issued along with a TRIAGE appointment for March 6, 2014. On February 22, 2014, a notice of case action was issued indicating Claimant's FIP benefits would be terminated and her FAP benefits would be reduced.

On March 5, 2014, a phone TRIAGE was conducted during which the Department determined no good cause. The Department presented the MRT determination along with a DHS-49 created on December 2, 2013, as the basis for a no good cause

determination. The Department testified that Claimant had not informed them of any new condition prior to the missed appointment. Further, the condition being alleged was similar to the one indicated on the DHS-49 form considered by MRT.

Claimant testified she did, in fact, have a new condition. She now has left tenosynovitis. The Department pointed out that Claimant's original DHS-49 indicated carpal tunnel syndrome. However, Claimant then alleged the DHS-49 referenced by the Department had not been completed by her physician. Claimant testified her physician does not write that much on any forms. Claimant alleged the information was added to the form by someone other than her doctor.

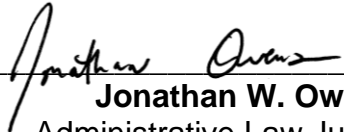
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

After considering the evidence and testimony presented, this Administrative Law Judge finds Claimant's testimony less than credible and not supported. She was unable to provide a specific date when she notified the Department of her alleged new condition. Further, Claimant presented no evidence showing she faxed the new medical needs form on March 5, 2014. Claimant's assertion that the Department, or someone other than her medical provider, completed the forms provided to the Department detracts from Claimant's credibility.

Claimant was afforded an MRT review of her medical needs and a determination was made by MRT on January 27, 2014, indicating she was capable of work with limitations. Claimant was afforded a delay in participation due to conflicting appointments and provided a second date to attend PATH. Claimant failed to attend the appointment. The Department properly scheduled a TRIAGE to discuss good cause. Upon review of the case, the Department determined no good cause. Claimant's alleged new condition documentation was not provided to the Department until after the TRIAGE and the no good cause determination. The Department properly processed a case action ending FIP benefits and reducing FAP benefits based upon a failure to participate in required work activities.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 10, 2014

Date Mailed: June 10, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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