

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-35014
Issue No(s): 1008, 3008
Case No.: [REDACTED]
Hearing Date: June 24, 2014
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 24, 2014, from Grand Rapids, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Facilitator, [REDACTED], Family Independence Manager, [REDACTED] Case Manager, Michigan Works Association, and [REDACTED], Case Manager, Michigan Works Association.

ISSUES

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

Did the Department properly decrease the Claimant's FAP group's monthly allotment due to the FIP sanction?

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 a recipient of FIP benefits and a mandatory PATH participant.
2. Claimant was a recipient of FAP benefits.
3. On April 10, 2014, the Department mailed Claimant a letter of Noncompliance (DHS-2444) based on not participating in required activity.
4. On April 10, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 6 months effective May 1, 2014 due to an alleged

violation of the PATH program requirements and that the FAP monthly allotment would decrease to \$ [REDACTED] for the group as the Claimant was no longer eligible due to the FIP non-compliance.

5. On April 16, 2014, Claimant filed a request for hearing contesting the Department's action.

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).

FIP

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.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each Work Eligible Individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A

A WEI and non-WEIs¹, who fails to participate in employment or self-sufficiency-related activities without good cause, 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. 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. BEM 233A.

Noncompliance of applicants, recipients, or member adds includes, without good cause, failing or refusing to: provide legitimate documentation or work participation, participate in employment and/or self-sufficiency-related activities; and participate in required activity. BEM 233A.

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

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. The policy lists several circumstances for good cause, including the client having a debilitating illness or injury. BEM 233A.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233 A.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements due to not participating in required activity. Specifically, by failing to complete required hours the weeks of March 16, 2014, March 23, 2014, and March 30, 2014. Claimant's reported job leads were audited and four employers confirmed no application/resume was on file for Claimant. Further, some of these employers reported they do not accept resumes in the store. It is noted that the Department had reduced Claimant's required participation hours based on documentation from Claimant's doctor that Claimant has limitations and would be restricted to 20 hours per week for three months. Further, Claimant had previously signed a re-engagement agreement on January 24, 2014. On April 10, 2014, the Department mailed Claimant a Letter of Noncompliance (DHS-2444) based on not participating in required activity. A triage meeting was held with Claimant on April 16, 2014, and the Department did not find good cause for the non-compliance.

Claimant asserts there has been a big misunderstanding and noted there were also issues with obtaining gas money timely. Claimant testified that in the past they used to communicate very well. Claimant also asserted that the triage was held before he was given the chance to provide proof. Claimant testified that in the past he was given time to clear things up. However, Claimant's testimony regarding the current non-compliance issues indicated that Claimant had not checked his phone messages timely. Claimant stated when he gets off work he is tired and has to nurse his leg. Therefore, Claimant did not get the message the Case Manager left him for two days. Further, when making up credit was discussed in a Friday meeting, Claimant noted that he was not specifically told how to make up credit when there was so little time left in the week. Claimant testified he suggested an activity he could participate in for a few hours that day before closing, but it would have still left him short hours for the week. Claimant noted the Case Manager told him this activity would be a good idea, but did not tell him it was mandatory. Claimant also asserted he takes advantage on his good days and may even do more than the required hours. Claimant indicated he could have turned in more for credit.

Additionally, Claimant testified that he did turn in the resumes as reported. Claimant stated he does not know why the potential employers would report otherwise, maybe they were thrown away. Possibly the manager was not in at the time and the employee

had not been told how applications are done there. Claimant submitted signed notes to support his testimony that he had turned in his resumes.

For this alleged non-compliance, it is noted that it was four separate employers, not just one, that confirmed no application/resume was on file for Claimant when reported job leads were audited. The evidence indicates that Claimant was aware of the participation requirements and consequences of non-compliance. Claimant's provided some testimony indicating there were similar issues in the past that were resolved, there was a past sanction for non-compliance, the Department witnesses credibly testified there were prior warnings and that Claimant signed a re-engagement agreement on January 24, 2014. The Claimant has not provided sufficient evidence of good cause for the non-compliance of not participating in required activity. The signed notes do not include any dates for when resumes were dropped off, several do not provide contact information or a title for the person that signed the note, and several do not even indicate the employer or location address. There is no evidence Claimant ever submitted documentation of participation in additional acceptable activities during the weeks at issue. Accordingly, the closure and sanction of the Claimant's FIP case based on his noncompliance with the PATH program requirements is upheld.

FAP

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the two situations, one of which is when client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233 B.

A FAP group member is disqualified for noncompliance when all the following exist: the client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance; the client did not comply with FIP/RCA employment requirements; the client is subject to a penalty on the FIP/RCA program; the client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B); and the client did not have good cause for the noncompliance. BEM 233 B.

In this case, Claimant was active for both FAP and FIP on the date of noncompliance; Claimant did not comply with the FIP employment requirements for PATH; Claimant is subject to a penalty for FIP; the Claimant was not deferred from FAP work requirements; and good cause has not been established for Claimant's non-compliance. Accordingly the determination to disqualify Claimant from the FAP group, resulting in the decrease in the FAP group's monthly allotment, is upheld.

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 and sanctioned the Claimant's FIP case based on his noncompliance with the PATH program requirements and when it reduced Claimant's FAP group's monthly allotment based on the FIP sanction.

DECISION AND ORDER

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



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

Date Signed: July 3, 2014

Date Mailed: July 3, 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

201435014/CL

CL/hj

cc:

