

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002393
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: JUNE 12, 2014
County: WAYNE-DISTRICT 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 June 12, 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, and [REDACTED], translator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for noncooperation 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. On April 17, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the FIP-related work participation program and scheduling a triage on April 24, 2014, and (ii) a Notice of Case Action notifying her of the closure of her FIP case effective May 1, 2014, based on her noncompliance with employment-related activities without good cause.
3. Claimant attended the triage and explained that she was unable to participate because of difficulties she was experiencing due to her pregnancy.

4. Because she did not have any documentation to support her pregnancy-related issues, the Department concluded that Claimant did not have good cause for her noncompliance.
5. On May 9, 2014, 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, 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.

Additionally, the Department closed Claimant's FIP case for a first noncompliance with employment-related activities, resulting in a three-month sanction imposed on her future receipt of FIP benefits.

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 is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to participate in employment and/or self-sufficiency-related activities for to provide legitimate documentation of work participation. BEM 233A, p. 2. The Department alleged that Claimant was in noncompliance with her FIP obligations because she had failed to attend workshops she was required to attend after she completed her 21-day FIP application eligibility period.

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.

Claimant attended the April 24, 2014 triage and explained that she told her PATH worker that she was unable to attend the workshops because of her pregnancy-related complications. Good cause includes being physically unfit for the job or activity as shown by medical evidence or other reliable information. BEM 233A, p. 5. Clients are also eligible for a deferral from PATH due to pregnancy complications but must provide medical verification that indicates that they are unable to participate. BEM 230A (October

2013), p. 9. The complication must be verified through a note from the client's doctor, a DHS-49, DHS-54A, or DHS-54E. BEM 230A, p. 25.

In this case, Claimant admitted that she did not have any documentation from her doctor to present at the triage. However, it is unclear that Claimant was advised after she complained of her difficulties and prior to the triage that she would need verification from her doctor in order to rely on her pregnancy for a deferral from participation in PATH or to explain her noncompliance with her PATH requirements. After the triage, she was able to obtain a note dated April 28, 2014, from her general practitioner stating that "[Claimant was] 7 months pregnant with complaints of heart palpitations, exacerbated even through simple daily activity. Accordingly, she cannot work or attend class for 6-9 months." Claimant testified that she submitted a copy of this note to the Department within a day or two of receiving it from her doctor. Therefore, the Department had the note within the negative action date and before Claimant's FIP case closed. See BEM 233A, p. 9; BAM 220 (January 2014), p. 11. The note served to verify Claimant's pregnancy complications and established good cause for her noncompliance.

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 failure to comply with FIP-related employment activities.

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 FIP-related employment sanction applied to Claimant's case on or about May 1, 2014;
2. Reinstate Claimant's FIP case effective May 1, 2014; and
3. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from May 1, 2014, ongoing.



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

Date Signed: **6/17/2014**

Date Mailed: **6/18/2014**

ACE / tlf

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:

