

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

IN THE MATTER OF:



Reg. No.: 14-003724
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: JULY 9, 2014
County: WAYNE-DISTRICT 15

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 July 9, 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.

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 May 1, 2014, the Department sent Claimant a PATH Appointment Notice requiring her to attend the PATH orientation on May 12, 2014.
3. Claimant did not attend the orientation.
4. On May 19, 2014, the Department sent Claimant a Notice of Noncompliance notifying her that she had failed to comply with the FIP-related work participation program and scheduling a triage on May 27, 2014.
5. Claimant did not attend the triage, and the Department concluded that she did not have good cause for her noncompliance.

6. On June 2, 2014, Claimant submitted a Medical Needs form, DHS 54E, that indicated that she had physical limitations due to a high-risk pregnancy.
7. The Department concluded that the Medical Needs form was falsified.
8. On June 4, 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).

Additionally, 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 or 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 a May 12, 2014 PATH orientation. At the hearing, Claimant admitted that she did not attend the PATH orientation. She contended that she did not receive the PATH appointment notice; however, she confirmed that the copy of the notice presented at the hearing was properly addressed to her address of record, and she admitted receiving other mail from the Department. Claimant's testimony failed to rebut the presumption that she received the properly addressed notice sent to her in the ordinary course of the Department's business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Therefore, there was a noncompliance in this case.

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 testified that she received the Notice of Noncompliance scheduling the May 27, 2014 triage but did not attend the triage because she did not have a babysitter available to watch her children. She contended that she called the Department, but her testimony established that she called the Department only after the 8:30 triage appointment time. The Notice of Noncompliance notifies clients that requests to reschedule must be made before the the scheduled appointment is missed. Therefore, the Department properly considered only the documentation it had in its files to address Claimant's noncompliance and any good cause explanation. See BEM 233A, pp. 9-10.

Claimant contends that she had been deferred from participation from the PATH program because she was pregnant and had a high risk pregnancy that required complete bed rest. Clients are 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 claimed that she had provided documentation to the Department concerning a March 2014 hospital emergency room visit showing that she had pregnancy-related issues. There was no evidence presented showing that Claimant was eligible for a deferral due to the March 2014 documentation or the length of any deferral she was eligible to receive. However, after Claimant's FIP case closed, the Department provided her with a Medical Needs-PATH, DHS-54-E form, for her doctor to complete. Claimant returned the form on June 2, 2014, and a copy was presented into evidence. The form is on its face suspicious because the doctor fails to print her name and title where indicated; instead, the spot where the name and title is requested has a handwritten notation "High risk pregnancy." Claimant's caseworker called Claimant's doctor's office to confirm that Claimant was seen by the doctor on June 2, 2014 as shown on the form and was advised that she was not. The worker at the hearing also called the doctor's office prior to the hearing and was similarly advised that Claimant was not seen on June 2, 2014. Based on its collateral contact with the doctor's office, the Department could properly conclude that Claimant failed to establish 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 acted in accordance with Department policy when it closed Claimant's FIP case for failure to comply with FIP-related employment activities.

At the hearing, the Department initially testified that the noncompliance at issue was Claimant's third and, consequently, her FIP case was closing for life. See BEM 233A, p. 8. However, the May 19, 2014, Notice of Noncompliance showed that the noncompliance at issue in this case was Claimant's second noncompliance with employment-related activities in connection with her receipt of FIP benefits. The Department did not provide the relevant notice of case action into evidence, despite being given the opportunity to do so. Claimant did not deny that she had a prior case closure. In the absence of any evidence from the Department that the instant case involved a third occurrence of FIP employment-related noncompliance, Claimant's case is subject to a minimum six-month closure applicable to a second occurrence of noncompliance. BEM 233A, pp. 1, 8. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy to the extent it applied a third sanction to Claimant's FIP case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the closure of Claimant's FIP case for a six month minimum AND REVERSED IN PART with respect to the sanction imposed.

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. Designate the FIP employment-related sanction applied to Claimant's record on or about June 1, 2014 as Claimant's second occurrence of noncompliance resulting in a six-month minimum case closure.



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

Date Signed: **7/14/2014**

Date Mailed: **7/16/2014**

ACE / ttf

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:

