

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

IN THE MATTER OF:



Reg. No.: 14-006242
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: July 31, 2014
County: WAYNE-19 (INKSTER)

ADMINISTRATIVE LAW JUDGE: ROBERT J. CHAVEZ

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 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], FIS.

ISSUE

Did the Department properly close claimant's FIP benefits and sanction claimant for 6 months?

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 FIP recipient in Wayne County.
2. Claimant was a mandatory PATH participant.
3. Claimant allegedly did not meet participation requirements.
4. No evidence was submitted to show how many hours claimant missed, how many days claimant missed, whether claimant was required to attend on certain days, what claimant's hour requirements were, or how specifically claimant was non-participatory.
5. No evidence was submitted as to whether claimant was given a triage or whether proper triage procedures were followed.

6. No notice of case action was submitted showing whether claimant's case was properly closed, or whether claimant's benefit case was sanctioned.
7. On June 27, 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.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Partnership, Accountability, Training, and Hope (PATH) program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. Clients who have not been granted a deferral must participate in employment and/or self-sufficiency related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called "noncompliance". BEM 233A defines noncompliance as failing or refusing to, without good cause:

"...Appear and participate with the PATH Program or other employment service provider..." BEM 233A pg. 1.

However, non-participation can be overcome if the client has "good cause". Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance is FIP closure. BEM 233A.

Furthermore, PATH participants cannot be terminated from a PATH program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. At these triage meetings, 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 MWA. BEM

233A. If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to PATH, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

After reviewing the facts of the case, the undersigned cannot reach the conclusion that claimant missed any hours, and was therefore non-participatory. This finding renders the necessity of a good cause finding moot, as good cause is not at issue, regardless of whether the triage was properly conducted. The issue is not whether the claimant had good cause for her failure to participate; the issue is whether the claimant failed to participate. The Administrative Law Judge holds that there is no evidence to show that claimant failed to participate to the best of their ability and meet their hour requirements.

The Administrative Law Judge holds that there is insufficient evidence stating exactly how the claimant was non-participatory with PATH.

The Department failed to provide any evidence detailing as to what dates claimant failed to attend PATH, what claimant's hour requirements were for attending PATH, or whether claimant had failed to meet hour requirements. No DHS-2444 was submitted. The MIS case notes that were submitted do not show missed hours. Therefore, the Department has failed to meet their burden of proof with regard to whether the claimant was actually non-participatory, as they have failed to provide documentary evidence of non-participation.

The Department has failed to meet their burden in showing that the claimant was actually non-participatory; the Department did not prove exactly how the claimant failed to meet the requirements of the PATH program. Therefore, the sanction against the claimant cannot stand.

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

failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed claimant's FIP benefits and applied a sanction.

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 negative action and sanction applied to claimant's FIP benefits, retroactive to the date of negative action.



ROBERT J. CHAVEZ

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

Date Signed: August 12, 2014

Date Mailed: August 12, 2014

RJC/tm

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:

