

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

IN THE MATTER OF:



Reg. No.: 14-008823
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: September 11, 2014
County: WAYNE-17

ADMINISTRATIVE LAW JUDGE: Robert 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 September 11, 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 case and impose a three month 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 an FIP recipient in Wayne County.
2. Claimant was a mandatory PATH participant.
3. Claimant allegedly did not meet participation requirements.
4. Claimant failed to make initial contact with PATH on May 13, 2014.
5. Claimant was found non-participatory by PATH officials.
6. On May 21, 2014, claimant was sent a DHS-2444 which scheduled a triage for May 29, 2014.
7. On May 29, 2014, a triage was held.

8. Claimant failed to attend the triage.
9. Claimant did not provide documentary evidence of good cause.
10. The Department held that claimant had no good cause for her non-participation with PATH and held that claimant was noncompliant.
11. This was the first incident of noncompliance.
12. Claimant's case was sanctioned and closed for a period of 3 months beginning July 1, 2014.
13. On July 29, 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. Hope. (PATH) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients 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 "non-compliance". BEM 233A defines non-compliance 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 non-participation 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. For the first occurrence of non-compliance on the FIP case, the client is sanctioned for a period not exceeding 3 months. BEM 233A.

Furthermore, PATH participants cannot be terminated from the PATH program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. 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 holds that the Department has properly shown that claimant was non-participatory. PATH case notes show that claimant failed to attend PATH activities on May 13, 2014. Claimant did not make initial contact with the PATH program.

While claimant alleged she did not receive notice of her appointment, claimant provided no evidence or gave testimony as to why she would not have received her notice. Claimant’s address did not change until July, 2014, and claimant did not make allegations of difficulty in receiving her mail.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Furthermore, the proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

The Department’s mailing appears to be properly addressed and mailed. The Department is thus entitled to a presumption of mailing. As the claimant has failed to rebut that presumption by submitting evidence or testimony, the undersigned cannot find claimant’s allegations of a failure to receive the mailing in question credible.

Additionally, the Department appears to have provided a procedurally correct triage; a triage was properly held, claimant was given a chance to provide evidence of good cause, and a determination of good cause was made using the evidence at hand.

Finally, claimant failed to provide the Department proof of good cause, and the claimant did not make any allegations of good cause before the date of negative action; claimant did not make any particular argument of good cause at the hearing.

Thus, as there was no proof of good cause, the Department could not have found good cause when it reviewed her case at triage.

Therefore, the Department has met its burden in proving its case. It has shown that claimant was non-participatory with PATH. It showed that claimant did not meet the standards of good cause. It showed that a triage was properly held, and that claimant was given an adequate chance to submit documentation of good cause, which claimant failed to do.

BEM 233A states that the claimant must submit verification and documentation of good cause, and the Administrative Law Judge agrees that proof up to the current point in time has been lacking. Therefore, because claimant has failed to prove that they had good cause, and failed to submit evidence of good cause to the Department before the date of negative action, as well as failed to submit evidence that she was not non-participatory, the Administrative Law Judge holds that the Department was correct to find the claimant in noncompliance, and correct to impose the sanction prescribed.

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 claimant's FIP case.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



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

Date Signed: **9/19/2014**

Date Mailed: **9/19/2014**

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:

A large black rectangular redaction box covers the recipient information for the cc field. The redaction is composed of several overlapping horizontal bars of varying lengths, completely obscuring any text that might have been present.