

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

**IN THE MATTER OF:**

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████████████████████

Reg. No.: 14-009862  
Issue No.: 1008  
Case No.: ██████████  
Hearing Date: September 15, 2014  
County: WAYNE-DISTRICT 15  
(GREYDALE)

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**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 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████, and Claimant's partner/witness ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████, Family Independence Specialist.

**ISSUE**

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on a failure to participate in employment and/or self-sufficiency related activities without good cause?

**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 and her witness were ongoing recipients of FIP benefits.
2. On June 16, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 15-16.

3. On June 16, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on June 24, 2014. Exhibit 1, pp. 17-18.
4. On June 24, 2014, Claimant and her witness attended the triage appointment and the Department found no good cause for their failure to participate in the Partnership. Accountability. Training. Hope. (PATH) program and, therefore the FIP non-compliances were upheld. See Exhibit 1, pp. 1, 4 and 10.
5. On August 11, 2014, Claimant filed a hearing request, protesting the FIP case closure. See Exhibit 1, pp. 2-3.

### **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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (July 2013), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider, participate in employment and/or self-sufficiency-related activities etc...; stating orally or in writing a definite intent not to comply with program requirements; etc...See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or

injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

It should be first noted that both parties' testimony concentrated on the Claimant's non-compliance. However, the evidence packet reveals that Claimant's witness was also allegedly non-compliant with the FIP program. See Exhibit 1, pp. 1 and 4.

In this case, Claimant and her witness were ongoing recipients of FIP benefits. The Department presented Claimant's and her witness' PATH case notes, which showed their PATH participation history. See Exhibit 1, pp. 7-9 and 12-14.

As to the witness' case notes, it appears that the non-compliance was due to him not following a job lead. See Exhibit 1, p. 7. However, the Department failed to provide any testimony as to why the witness was found in non-compliance with the PATH program.

As to the Claimant's case notes, it appears to indicate that the non-compliance was due to her being terminated from employment. See Exhibit 1, p. 12. Claimant testified, though, that she was never terminated from her employment. Claimant testified that her employment was temporary. Claimant testified that she worked at the employer from the end of April 2014 to the end of May 2014. Claimant testified that she stopped going to the employer due to transportation issues.

In response to Claimant's testimony, the Department actually did not dispute her testimony. In fact, the Department acknowledged that Claimant had been employed and that a non-compliance was not present. Moreover, the Department agreed that transportation was a good cause reason.

Nevertheless, on June 16, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective July 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 15-16.

On June 16, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on June 24, 2014. Exhibit 1, pp. 17-18. It should be noted that a Notice of Noncompliance for the witness was not provided as evidence.

On June 24, 2014, Claimant and her witness attended the triage appointment and the Department found no good cause for their failure to participate in the PATH program and, therefore the FIP non-compliance was upheld. See Exhibit 1, pp. 1, 4 and 10.

As to the witness' triage notes, the reason for the triage was based on missed appointment/meeting, no participation in required activity, and refused employment. See Exhibit 1, p. 4. The triage notes further state that no good cause was found and

that the sanction was upheld. See Exhibit 1, p. 4. Again, the Department did not present any testimony as to the witness' triage appointment.

As to the Claimant's triage notes, the reason for the triage was based on refused supportive services, refused employment, and quit or was fired from job. See Exhibit 1, p. 10. The triage notes further state that Claimant failed to provide required documentation and the sanction was upheld. See Exhibit 1, p. 10. The Department testified that Claimant was unaware that she had to bring documentation to the triage in order to prove that she was employed. It should be noted that the Notice of Noncompliance letter dated June 16, 2014, states good cause reasons and that it has to be verified. See Exhibit 1, pp. 17-18.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective July 1, 2014, ongoing, in accordance with Department policy.

First, it is found that the Department failed to satisfy its burden of showing that the witness was in non-compliance with the PATH program. The Department presented some evidence as to the witness' alleged non-compliance (i.e., PATH case notes and triage notes). However, the Department failed to provide any testimony as to why the witness was found non-compliant with the PATH program. Because the Department failed to satisfy its burden of showing that the witness was in non-compliance with the PATH program, it improperly sanctioned the witness from the PATH program.

Second, it is established that the Department improperly found the Claimant to be in non-compliance with the PATH program. The Department acknowledged during the hearing that the Claimant had been employed and that a non-compliance was not present. In fact, the Department testified that Claimant's FIP benefits should be reinstated. Based on the above information, the Department improperly sanctioned the Claimant from the PATH program and the evidence presented that Claimant was in compliance.

Moreover, the Department agreed with the Claimant that transportation was a good cause reason. BEM 233A states for no transportation that the client requested transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A, p. 6. It should be noted that Claimant's PATH case notes indicated she was provided bus tickets; however, it also stated her car broke down. See Exhibit 1, pp. 12-13. Nevertheless, both parties agreed that transportation was a barrier to the Claimant based on her residence location to the work site. As such, even if a non-compliance was found, the Claimant established that transportation was a good cause reason for the non-compliance. BEM 233A, p. 6.


**DECISION AND ORDER**

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 benefits effective July 1, 2014.

Accordingly, the Department's FIP 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 group's first sanction/non-compliance from their case;
2. Reinstate Claimant's FIP case as of July 1, 2014; and
3. Issue supplements to Claimant effective July 1, 2014, ongoing.

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

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

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

EJF / cl

**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:

[REDACTED]