

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010076
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: September 18, 2014
County: MUSKEGON

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Family Independence Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits 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 on-going FIP (cash assistance) recipient.
2. Claimant reported to the Department on July 21, 2014, that she had gained employment.
3. On July 22, 2014, the Department asked Claimant to provide verification of her employment.
4. On August 6, 2014, because the Claimant had not provided verification of her employment, the Department mailed a Notice of Noncompliance (Exhibit 1 Page 19) requiring her to attend a triage meeting on August 14, 2014, and imposing a

three-month closure of her FIP. On that same date, it mailed a Notice of Case Action (NCA) informing her that her FIP would be closed effective September 1, 2014. (Exhibit 1 Page 17.)

5. Claimant did not attend the triage.
6. On August 14, 2014, the Department mailed a Quick Note (Exhibit 1 Page 20) advising Claimant that she could avoid the sanction if she submitted copies of text messages that Claimant alleged her employer had sent to her about her employment. She was to provide the copies by August 25, 2014.
7. Claimant did not produce the texts by August 25, 2014, but she submitted a hearing request which the Department received on August 18, 2014.

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.

The PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.”

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH.” BEM 233A p 11 (7/1/13).

Per BEM 233A, “good cause for non-compliance” are based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.”

Claimant testified that she believed her employer was asking her to work under illegal conditions. She testified that he sent her text messages saying that she was no longer employed after she had asked him for a work schedule. She further testified that she did not have the ability to print out the text messages, and she did not have the cellphone with her at the hearing to be able to produce the text messages for the Department’s witnesses to read. Claimant stated repeatedly that she was told she was no longer needed after she asked the employer for a work schedule. She also said she had text messages from him agreeing to provide her with transportation.


Claimant was given an opportunity to present the text messages at the triage, but she did not attend the triage. Then, she was given more time to produce the texts that she claimed were evidence. She did not produce the texts. She also testified that she did not know how to print out the texts. However, she had no explanation for not contacting the Department and explaining her circumstances, or asking the Department for assistance. The Department’s witness testified that she would have been found to have good cause for her noncompliance if she had produced the texts.

Claimant had the opportunity to show good cause for her noncompliance. She had an extended period of time, even after the triage meeting, to show good cause. She failed to comply with the Department, and she failed to show 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 determined that Claimant failed to comply with the training requirements, and that she failed to show good cause for her non-compliance.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.


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

Date Signed: **9/22/2014**

Date Mailed: **9/22/2014**

DJ/jaf

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:

