

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-010174
Issue No.: 1008, 6001
Case No.: ██████████
Hearing Date: September 22, 2014
County: WAYNE (31)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) for failure to participate in employment?

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 FIP recipient.
2. Claimant was scheduled to attend PATH in May 2014.
3. Claimant failed to attend PATH due to a domestic violence matter.
4. On July 21, 2014, the Department granted good cause to Claimant and re-referred her to the PATH program with an appointment date of July 28, 2014.
5. Claimant called her assigned worker on July 29, 2014 and stated that she missed her PATH appointment due to child care issues.

6. Claimant informed her worker that she was homeless but requested not to be deferred from the PATH program.
7. On July 29, 2014, the Department mailed a PATH Appointment Notice to Claimant's former address with an appointment date of August 4, 2014.
8. Claimant failed to attend.
9. On August 7, 2014, the Department sent Claimant a Notice of Noncompliance scheduling a meeting date for August 13, 2014 to allow Claimant an opportunity to establish good cause for her failure to attend PATH.
10. On August 7, 2014, the Department also sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective September 1, 2014 for failure to participate in employment and/or self-sufficiency related activities.
11. Claimant did not attend the August 13, 2014 meeting.
12. On June 10, 2014, the Department sent Claimant a Child Care Provider Authorization notice advising that her application for CDC benefits had been approved at 100% for her three minor children effective June 1, 2014.
13. At the time of application, Claimant was taking GED courses which ended by mid-July 2014.
14. On August 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits would close effective September 6, 2014 as there was no longer a need for those services.
15. On August 22, 2014, Claimant filed a Request for Hearing disputing the closure of both her FIP and CDC benefits.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

FIP

Additionally, PATH participants must complete the 21-day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (July 2013), pp. 1, 6. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, p. 6. This requires that the client (i) begin the AEP by the last date to attend as indicated on the PATH Appointment Notice, (ii) complete the PATH AEP requirements, and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p.1. Completion of a FAST is also required. The participant's failure to submit a FAST within 30 days of the notice date is a failure to meet eligibility requirements and will result in application denial. BEM 228 (July 2013), p. 21.

The Department is to temporarily defer an applicant with identified barriers until the barrier is removed. BEM 229, p. 2. Clients who meet the criteria for a deferral may request a referral to PATH. However, noncompliance penalties apply to all voluntary participants. A voluntary client, who discovers they do not have the capacity to fulfill their requirements, must immediately inform the specialist or PATH worker before becoming noncompliant. BEM 230A (October 2013), p. 17.

Claimant had previously been referred to the PATH program. Claimant missed her initial orientation. The Department stated that in May 2014, it had reason to believe that Claimant was involved in a domestic violence situation. As a result, Claimant was given good cause in May 2014 for missing the orientation. On July 21, 2014, the Department referred Claimant to the PATH program once again. Claimant's appointment date was July 28, 2014. Claimant failed to attend. Claimant contacted her assigned worker on July 29, 2014 to explain that she missed the appointment due to child care issues. Claimant's assigned worker informed Claimant that child care had been authorized for her since June 2014. During the July 29, 2014 conversation, Claimant informed the Department that she no longer had an address. Because the Department believed Claimant to be homeless, it suggested that she be deferred from the PATH program. However, Claimant requested not to be deferred and thus became a voluntary participant.

The Department mailed another PATH Appointment Notice to Claimant's old address. The Department testified that Claimant indicated that she would still be able to retrieve mail at this address. Claimant denied this claim and stated that she did not receive the

PATH Appointment Notice, Notice of Noncompliance or the Notice of Case Action as they were all sent to her former address. However, Claimant testified that she moved from the old address in mid-June. Claimant acknowledged that she received the PATH Appointment Notice mailed on July 21, 2014 setting the July 28, 2014 appointment date. The Department mailed another PATH Appointment Notice on July 29, 2014 which was the same day Claimant requested not to be deferred.

Given that Claimant confirmed receipt of mail just a few days before, the Department's testimony that Claimant instructed it to continue sending mail to that address is found to be credible. Further, Claimant acknowledged that she had a cell phone but testified that she had no contact with her assigned worker from July 29, 2014 through August 18, 2014. Because Claimant had not informed her worker as to any reason why she could not attend PATH after requesting not to be deferred, she was properly placed in noncompliant status on August 7, 2014.

Department policy allows clients to establish a valid reason for noncompliance with employment and/or self-sufficiency related activities. BEM 233A (July 2013), p. 4. If the Department receives credible information that indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities, good cause may be granted. In this case, Claimant's homelessness was not unplanned. At the time she volunteered to participate in PATH, she was aware that she was homeless. The Department testified that as a result of her noncompliance, Claimant received a three month FIP sanction in accordance with Department policy BEM 233A, p. 8. The Department testified that the FIP sanction began September 1, 2014 and lasts through November 2014.

Claimant's failure to retrieve her mail together with her failure to maintain contact with the worker does not provide a basis upon which good cause can be found. It is therefore found that Claimant did not establish good cause for failing to attend her August 4, 2014 PATH appointment and the three month sanction was proper. Claimant may reapply for FIP benefits at the conclusion of her sanction period.

CDC

Claimant's application for CDC benefits was approved effective June 1, 2014. Claimant testified that at the time of application she was taking GED courses. The GED courses ended in either the beginning or mid-July 2014. The Department testified that because Claimant's GED classes ended, she was not attending PATH and because it had no knowledge of any other daycare need, it sent Claimant a Notice of Case Action on August 13, 2014 notifying her that her CDC benefits would end effective September 1, 2014.

Department policy holds that when a client meets the requirement that caused the negative action before the negative effective date, the Department is required to delete the negative action. BAM 220 (January 2014) p. 12. In this case, Claimant testified that she began taking college courses on or about August 28, 2014 and immediately

provided this information to her assigned worker. Accordingly, because Claimant cured the issue causing the negative action before the effective date of September 1, 2014, the negative action should have been deleted.

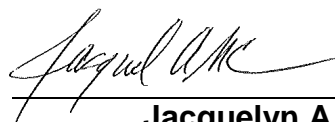
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with policy when it closed Claimant's FIP case for failure to participate in employment and/or self-sufficiency related activities without good cause. However, it is also found that the Department did not act in accordance with policy when it failed to delete the closure of CDC benefits after Claimant cured the requirement before the negative effective date.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** in part and **REVERSED** in part.

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. Reinstate Claimant's CDC benefits effective September 6, 2014; and
2. Issue provider supplements for any CDC benefits incurred after September 6, 2014.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/25/2014**

Date Mailed: **9/25/2014**

JAM / 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]