

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-010377  
Issue No.: 1008  
Case No.: [REDACTED]  
Hearing Date: September 23, 2014  
County: CALHOUN (DISTRICT 21)

**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 23, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] and Eligibility Specialist [REDACTED].

**ISSUE**

Did the Department properly close Claimant's Family Independence Program (FIP) benefits, and impose a lifetime 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. On June 2, 2014, Claimant was mailed a notice to attend PATH orientation on June 9, 2014 at 9:00 a.m. (Exhibit 1 Page 1.)
2. The Notice instructed Claimant to inform her specialist "if you need help with transportation or child care right away."
3. Claimant works for Buffalo Wild Wings beginning at 10:00 a.m. on most days, and she has three young children, the youngest of whom was only six months old at the time.
4. Claimant did not attend PATH orientation because, as she explained it, she received the notice in insufficient time to request time off from her work schedule,

and although she had child care available for her older children, she did not have child care available for her youngest child.

5. The Department mailed to Claimant a Notice of Noncompliance (Exhibit 1 Pages 2A-2B) informing her that she was scheduled for a triage at 1:15 on July 2, 2014.
6. On June 21, 2014, the Department also mailed a Notice of Case Action (Exhibit 1 Pages 3A-3B) closing her FIP effective August 1, 2014, and imposing a lifetime sanction because Claimant had been sanctioned at least twice previously for non-compliance with FIP requirements.
7. Because of her work schedule, Claimant asked if she could have her triage rescheduled to 4:00, via telephone, on July 2, 2014, and the Department agreed.
8. Claimant took a break from 3:55 until 4:10 on July 2, 2014 and waited for the Department's call, but the Department did not call her until she was back on the clock at 4:11 and unable to take the call.
9. Claimant returned the Department's call shortly after 5:00 on July 2, 2014, as soon as she had clocked out from work.
10. On July 3, 2014, the Department found Claimant failed to show good cause for her non-compliance because she did not participate in the triage phone conference.
11. On August 2, 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.

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 FIP 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 the Department was aware of her child care limitations. The parties agreed that Claimant was scheduled to have a triage phone conference at 4:00 on July 2, 2014, and that the Department did not call her until after Claimant had gone back to work from her break. The parties also agreed that Claimant called back shortly after 5:00 that day.

The burden is on the Claimant to establish good-cause during the triage. She was not able to attend the triage because the Department did not call her in time for her to participate before her break ended that day.

It will be noted that the parties were noticed that the instant hearing was scheduled for 9:00. Claimant was ready to proceed on time. The Department was not able to participate until 9:33. It is indisputable that sometimes other events prevent the Department from being able to participate precisely at the scheduled time. For whatever reason, they were unable to participate as scheduled at the time of this hearing, and they were unable to participate as scheduled at the time of the triage. That should not be allowed to prejudice the Claimant, particularly with a consequence as severe as a lifetime sanction disqualifying her from FIP benefits.

Claimant has presented evidence that substantiates she had good cause for not participating in PATH orientation, inasmuch as she did not receive the notice in sufficient time for her to schedule the day off from work, and she did not have child care available for her infant.

The testimony is convincing that the Claimant should have been allowed to participate in the triage on July 2, 2014, with the Department calling her on time. By denying her the opportunity to participate and establish good cause, the Department erred.

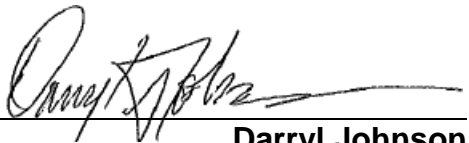
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant the opportunity to participate in the triage on July 2, 2014, and then closing her benefits for failure to attend orientation in the PATH program. It also erred in imposing a lifetime 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. Redetermine Claimant's FIP benefit eligibility, effective August 1, 2014;
2. Remove the lifetime sanction;
3. Issue a supplement to Claimant for any benefits improperly not issued.

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

Date Signed: **9/24/2014**

Date Mailed: **9/24/2014**

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:

