

**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.: 14-012848
Issue No.: 1008
Case No.: ██████████
Hearing Date: October 30, 2014
County: Wayne-District 41

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his daughter, ██████████, who also served as translator. Participants on behalf of the Department of Human Services (Department) included ██████████ Hearings Coordinator and ██████████, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to 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 was an ongoing recipient of FIP benefits.
2. Claimant sought a deferral from participation in the work participation program on the basis that he is disabled. (Exhibit 1)
3. The Medical Review Team (MRT) determined that Claimant was not disabled and that he was work ready with limitations. (Exhibit 2)
4. On September 2, 2014, the Department sent Claimant a PATH Appointment Notice instructing him to attend an appointment on September 10, 2014. (Exhibit 3)

5. On September 22, 2014, the Department sent Claimant a Notice of Noncompliance instructing him to attend a triage meeting on September 29, 2014, to discuss whether good cause existed for his noncompliance. (Exhibit 4)
6. On September 22, 2014, the Department sent Claimant a Notice of Case Action informing him that effective November 1, 2014, the Department intended to terminate his FIP benefits and impose a three month FIP sanction based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit 5)
7. On September 29, 2014, Claimant submitted a hearing request disputing the Department's actions.

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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (October 2014), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. BEM 233A, pp. 4-6.

Good cause can include any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with

employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A, p.9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (October 2014). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, Claimant alleged a disability as grounds for deferral from participating in PATH. BEM 230A (October 2014), pp.9-13. Claimant's medical documentation was sent to MRT to determine if Claimant's request for deferral would be granted. (Exhibit 1). On or around August 8, 2014, MRT determined that Claimant was not disabled for PATH purposes and that he was work ready with limitations. (Exhibit 2). Pursuant to BEM 203A and BEM 229, because Claimant's temporary deferral ended, on September 2, 2014, the Department sent Claimant a PATH Appointment Notice instructing him to attend the PATH program on September 10, 2014. (Exhibit 3);BEM 230A, pp14-15;BEM 229 (July 2013), pp.3-6.

The Department testified that because Claimant did not attend his PATH appointment on September 10, 2014, and because the Department did not receive any communication from Claimant concerning his inability to attend the PATH appointment, Claimant was placed in noncompliance with work-related activities. The Department sent Claimant a Notice of Noncompliance informing him that he was required to attend a triage meeting on September 29, 2014, to discuss whether he had good cause for his noncompliance. (Exhibit 4).

A triage was conducted on September 29, 2014, at which Claimant appeared. At the triage, the Department determined that Claimant did not have good cause for his failure to attend the PATH appointment, and initiated the closure of his FIP case effective November 1, 2014, imposing a three month sanction for the first occurrence of noncompliance. (Exhibit 5).

At the hearing, Claimant conveyed his disagreement with the MRT decision and stated that he was unable to work or participate in PATH due to his medical conditions. According to BEM 230A, when a deferral from participation in PATH is not granted and the MRT determines that a client is not disabled for PATH purposes, it is not a loss of benefits, termination or negative action; therefore, a hearing cannot be requested to dispute the decision of the MRT. BEM 230A, pp.19-20; BAM 600 (October 2014), pp. 4-6.

Claimant further testified that he did not attend the PATH appointment on September 10, 2014, because he did not receive the PATH Appointment Notice. (Exhibit 3). Although Claimant testified that he did not receive the PATH Appointment Notice informing him of the requirement to attend PATH, 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 PATH Appointment Notice was mailed to Claimant at his confirmed mailing address and Claimant did not report that he was having problems receiving mail. Furthermore, Claimant confirmed that he received the Notice of Noncompliance and other documents from the Department. Thus, Claimant has not presented sufficient evidence to rebut the presumption that he received the PATH Appointment Notice.

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 because Claimant did not establish that he had a valid good cause reason for not attending his PATH appointment, the Department acted in accordance with Department policy when it closed Claimant's FIP case effective November 1, 2014, and imposed a three month sanction for noncompliance with work related activities.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/31/2014**

Date Mailed: **10/31/2014**

ZB / tlf

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]