

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

IN THE MATTER OF:



Reg. No.: 14-013786
Issue No.: 1008, 3001
Case No.: [REDACTED]
Hearing Date: November 17, 2014
County: WAYNE- 15 (GREYDALE)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 November 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. [REDACTED] also appeared as a witness for the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIS, and [REDACTED], FIM.

ISSUE

1. Did the Department properly close the Claimant's FIP cash Assistance case due to failure to comply with work related requirements of the PATH program?
2. Did the Department properly reduce the Claimant's Food Assistance (FAP) benefits due to failure to comply with work related requirements of the PATH program?
3. Did the Department properly impose a 3-month, first sanction on the Claimant due to failure to comply with work related requirements of the PATH program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FIP cash assistance and Food Assistance.

2. The Claimant was assigned to attend the PATH program and when he obtained employment, he was requested to provide the PATH program his pay stubs. The Claimant provided one pay stub as requested to the PATH program.
3. The Claimant was sent a re-engagement letter by the PATH program that he did not receive. The re-engagement letter was not presented by the Department at the hearing.
4. The Claimant did not attend the PATH program while he was on call with his employer. This was the Claimant's first time assigned to PATH. The Claimant was not working after receiving the first pay stub.
5. The Claimant was sent a Notice of Non-Compliance on October 1, 2014 scheduling a triage for October 7, 2014. The Claimant did not attend the triage, but reported to the Department the next day with a pay stub. The Claimant was out of town at the time of the triage and when the Notice of Non Compliance was sent to him.
6. The Claimant began work in August 2014 and was on an on-call basis. During this period, he only had one pay stub.
7. The Department issued a Notice of Case Action on October 1, 2014, closing the Claimant's FIP case and reducing Claimant's FAP benefits effective November 1, 2014, due to non-compliance with the PATH program requirements. The Department also imposed a 3-month sanction due to failure to participate in the PATH program. Exhibit 1
8. The Claimant requested a hearing on October 10, 2014 protesting 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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department

(formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the issue involves the Claimant's failure to attend a re-engagement meeting with the PATH program and to provide check stubs. The Department did not present the re-engagement letter allegedly sent by the PATH program to the Claimant. The Claimant credibly testified that he never received the letter, and thus did not attend the re-engagement meeting or provide check stubs as requested. The Department has the burden of proof and must present its case and evidence necessary to support its actions. In this case, the Department did not present the re-engagement letter, and thus did not demonstrate that it was sent to the Claimant on the date alleged. The Claimant was subsequently placed in triage as a result of his failure to attend the re-engagement meeting and provide two consecutive pay stubs. No one from the Work First Program attended the hearing, and the Claimant credibly testified that he did provide the PATH program with his first and only pay stub he received. At the hearing, it was clear that this was the Claimant's first time attending PATH. He testified that he was unaware that he had to attend PATH, or work at least 20 hours weekly to be eligible to receive FIP cash assistance if he was not working. The Claimant believed that he was in compliance as he had a job. The Claimant was on call for his job and did not work steadily. As explained at the hearing, the Claimant must work at least 20 hours per week at employment or must attend the PATH program if not working.

As a condition of continued FIP eligibility, work eligible individuals are **required to participate in a work participation program or other employment-related activity** unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2014), p. 1; BEM 233A (July 2014), p. 1. A client is in noncompliance with FIP obligations if he fails or refuses, without good cause, to appear and participate with the work participation program or other employment service provider, to participate in any required activities, or to complete a job application. BEM 233A, p. 2. The Department alleged that Claimant was in noncompliance with his PATH obligations because he had failed to attend a re-engagement meeting scheduled by the PATH program and provide two consecutive pay stubs. Based upon the evidence presented, the Department failed to meet its burden of proof. The Claimant could not attend a re-engagement meeting if he never received the notice; therefore, the Department did not demonstrate a proper basis for its triage decision finding no good cause, case closure and sanction for non-compliance with PATH requirements. The Claimant could not comply if he did not receive the re-engagement letter. The failure to receive the re-engagement letter is good cause for the Claimant to have not attended the re-engagement, and thus the Claimant should have not been triaged in the first instance.

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 the Claimant's FIP cash assistance case, imposed a 3-month sanction due to non compliance without good cause with PATH program requirements, reduced Claimant's FAP benefits, and removed him from his FAP group.

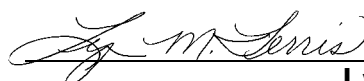
DECISION AND ORDER

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. The Department shall reinstate the Claimant's FIP cash assistance and remove the 3-month first sanction imposed due to non-compliance from the Claimant's case record.
2. The Department shall reinstate the Claimant to his FAP group effective November 1, 2014, and recalculate the FAP benefits accordingly.
3. The Department shall issue a FIP supplement and a FAP supplement to the Claimant for any FIP or FAP benefits the Claimant was otherwise entitled to receive in accordance with Department policy.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/21/2014**

Date Mailed: **11/21/2014**

LMF/tm

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 48909-8139

cc:

