

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 14-014415
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: December 10, 2014
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 10, 2014, from Detroit, Michigan.

Participants on behalf of Claimant included Claimant, [REDACTED]; Claimant's husband, [REDACTED]; and Claimant's Authorized Hearing Representative (AHR)/attorney, [REDACTED].

Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Partnership. Accountability. Training. Hope. (PATH) Coordinator; [REDACTED] Family Independence Specialist; [REDACTED] (witness 1), Case Manager from [REDACTED] (hereinafter referred to as "Ross IES"); [REDACTED] (witness 2), employee from Ross IES; [REDACTED] (witness 3), Quality Assurance Supervisor from Ross IES; and [REDACTED] (witness 4), Application Eligibility Period worker from Ross IES.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's 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. On October 6, 2014, Claimant signed a PATH Program Reengagement Agreement at her local PATH office. See Exhibit 1, p. 16. Thereafter, on October 6, 2014, Claimant behaved disruptively toward the Ross IES staff (PATH workers).
3. On October 8, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on October 14, 2014. Exhibit 2, p. 1.
4. On October 8, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective November 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 2, pp. 4-6
5. On October 14, 2014, Claimant and her husband attended the triage appointment and the Department found no good cause for Claimant's non-compliance with the PATH program; therefore, the FIP non-compliance was upheld. See Exhibit 1, p. 7.
6. On October 14, 2014, Claimant filed a hearing request, protesting the FIP case closure. See Exhibit 1, p. 2.
7. On November 3, 2014, the Michigan Administrative Hearing System (MAHS) sent both parties a Notice of Hearing, scheduling her for a hearing on November 19, 2014.
8. On November 13, 2014, Claimant's AHR filed a Notice of Appearance and a request for adjournment.
9. On November 17, 2014, the Administrative Law Judge (ALJ) sent both parties an Adjournment Order.
10. On November 25, 2014, MAHS sent both parties a Notice of Hearing, rescheduling Claimant's hearing for December 10, 2014.
11. On December 4, 2014, Claimant's AHR requested an adjournment.
12. On December 9, 2014, the ALJ sent both parties an Order Denying Request for Adjournment.
13. On December 10, 2014, all parties were present for the hearing and it proceeded accordingly.

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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2014), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (October 2014), p. 2. PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

On October 1, 2014, the PATH program sent Claimant a Non-Compliance Warning Notice, which scheduled her for a PATH reengagement appointment on October 6, 2014. See Exhibit 1, p. 15. It should be noted that the reengagement appointment was a separate non-compliance as to the alleged non-compliance that occurred in this incident.

On October 6, 2014, Claimant and her husband went to their local PATH office. Claimant's husband went to the PATH program because he was scheduled for orientation. Claimant went to the local PATH office because of her scheduled reengagement appointment. Claimant then signed a PATH Program Reengagement Agreement with witness 1. See Exhibit 1, p. 16.

At the hearing, witnesses 1 through 4 (all Ross IES staff) all had similar testimony in which it described Claimant as behaving disruptively toward the Ross IES staff on October 6, 2014. All the witnesses indicated that the incident occurred at the front desk of the PATH office and was the result of the Claimant inquiring as to why her husband had to attend orientation. All the witnesses described Claimant as loud, argumentative,

and used expletives towards the staff (appeared using expletives as she exited the building).

In response, Claimant argued that she was not disruptive and/or used expletives and that she naturally has an elevated voice. Claimant acknowledged that she was present at the local PATH office in regards to a reengagement appointment; however, she also wanted to inquire on the multiple non-compliances issued to her. Also, Claimant's husband acknowledged that he was there for a PATH orientation. After Claimant signed her reengagement letter, Claimant testified that she still discovered that her husband was waiting for orientation. It should be noted that Claimant testified that her husband forgot his PATH Appointment Notice and the PATH program would not allow him to attend orientation without such a notice. Claimant testified the receptionist had his appointment letter and failed to give it to her. Claimant's testimony indicated that they (Ross IES employee and Claimant) began to argue and Claimant asked for a supervisor as she did earlier. Claimant indicated that multiple Ross IES employees came up front and Claimant notified them (Ross IES employees) that they were not professional. Claimant testified that as she walked out to leave the building, she heard witness 4 shout an expletive at her, which witness 4 denies. Claimant and her husband testified that she did not use expletives towards the Ross IES staff. Claimant's husband also provided similar testimony as to Claimant's account of the events that occurred on October 6, 2014. Finally, on October 10, 2014, Claimant filed a complaint. See Exhibit A, pp. 1-3.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective November 1, 2014, ongoing, in accordance with Department policy.

First, noncompliance of applicants, recipients, or member adds without good cause includes threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity. See BEM 233A, pp. 2-3. All four witnesses (all Ross IES staff) had similar testimony in which it described Claimant as behaving disruptively towards the Ross IES staff on October 6, 2014. Specifically, all four witness described Claimant as loud, using expletives, and argumentative towards the Ross IES staff, which had lasted for minutes. All four witnesses credibly testified that Claimant behaved disruptively towards the Ross IES staff, which resulted in her being noncompliant. Because Claimant behaved disruptively, the Department acted in acted with Department policy when it found her in noncompliance. See BEM 233A, pp. 2-3.

Second, Claimant failed to provide any good cause reason for the non-compliance. At the time of triage, both parties provided the same testimony as to the incident that occurred on October 6, 2014. However, Claimant testified that the PATH coordinator came to triage and after he spoke, Claimant testified she was not given an opportunity to respond to him regarding the incident. Nevertheless, during the hearing, Claimant was given an opportunity to provide any good cause reasons for the non-compliance


and none were provided. As stated above, this ALJ finds that the Department properly found Claimant in non-compliance with the PATH program; therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, p. 1.

It should be noted that the Department presented evidence that Claimant's FIP benefits continued pending this hearing outcome. See Exhibit 1, pp. 5-6. However, Claimant testified that she did not receive her FIP allotment for November 2014, ongoing. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. BAM 600 (October 2014), p. 23. The evidence indicated that Claimant had a timely hearing request. Nonetheless, this ALJ concluded that Claimant's FIP benefits closed effective November 1, 2014, in accordance with Department policy. As such, it is harmless error by the Department if Claimant did not continue to receive her FIP assistance pending the outcome of this hearing because the Department properly closed her FIP benefits.

DECISION AND ORDER

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 properly closed Claimant's FIP benefits effective November 1, 2014.

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



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/15/2014**

Date Mailed: **12/15/2014**

EJF / 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 48909-8139

CC:

[REDACTED]