

**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.: 14-001751
Issue No.: 1008
Case No.: ██████████
Hearing Date: June 2, 2014
County: WAYNE-DISTRICT (15)

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 June 2, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist; and ██████████, Partnership. Accountability. Training. Hope. (PATH) Case Manager.

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. See Exhibit 1, p. 9.
2. The Department found that the Claimant failed to meet weekly PATH employment requirements and/or job search requirements for March 2014. See Exhibit 1, p. 4.
3. On or around March 27, 2014, the PATH program sent Claimant a Noncompliance Warning Notice with an appointment date of April 3, 2014. See Exhibit 1, p. 4.
4. Claimant failed to attend her appointment. See Exhibit 1, p. 4.

5. On April 22, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 29, 2014. Exhibit 1, pp. 7-8.
6. On April 22, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective June 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 9-13.
7. On April 22, 2014, Claimant failed to attend the triage appointment; however, the Department still conducted a triage in the Claimant's absence, and it found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. See Exhibit 1, p. 1.
8. On May 1, 2014, Claimant filed a hearing request, disputing her FIP case closure. See Exhibit 1, pp. 2-3.

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 2013), 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.

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 (July 2013), p. 9. Good cause is determined during triage. 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. 3. 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. 3-6.

In this case, Claimant was an ongoing recipient of FIP benefits. See Exhibit 1, p. 9. The Department found that the Claimant failed to meet weekly PATH employment requirements and/or job search requirements for March 2014. See Exhibit 1, p. 4. Specifically, the PATH caseworker testified that Claimant is employed and therefore, required to work 20 hours per week to meet the PATH requirements. On March 6, 2014, the PATH case notes indicated that a PATH caseworker mailed the Claimant a check stub letter. See Exhibit 1, p. 4. Moreover, the check stub letter indicated for the Claimant to submit a copy of the last two check stubs within two weeks. See Exhibit 1, p. 4. On March 18, 2014, the case notes indicated that the PATH caseworker received the check stub letter from the Claimant via email. See Exhibit 1, p. 4. The check stubs indicated that Claimant worked 20.72 hours for 2/16/14 to 3/1/14 and 16.52 hours for 2/2/14 to 2/15/14. See Exhibit 1, p. 4.

Additionally, on March 27, 2014, the case notes indicated that Claimant is not working enough hours or conducting job searches to make up her working hours. See Exhibit 1, p. 4. Thus, on or around March 27, 2014, the PATH program sent Claimant a Noncompliance Warning Notice with an appointment date of April 3, 2014. See Exhibit 1, p. 4. Claimant failed to attend her appointment. See Exhibit 1, p. 4. On April 22, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 29, 2014. Exhibit 1, pp. 7-8. On April 22, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective June 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 9-13. On April 22, 2014, Claimant failed to attend the triage appointment; however, the Department still conducted a triage in the Claimant's absence, and it found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. See Exhibit 1, p. 1.

At the hearing, Claimant acknowledged that she emailed her check stubs to the PATH program on March 18, 2014. However, Claimant testified also that she submitted her college schedule and financial aid information. Claimant testified that the significance of these documents was that she supplemented her employment hours by attending school full time. Claimant testified that she thought on previous occasions that she can attend school and that it can count towards her PATH requirements. It should be noted that the PATH caseworker testified she did not receive such additional school documentation nor did she know that Claimant was attending school. The Department worker testified that she was aware that Claimant attended school, but could not recall when she was first notified.

Additionally, Claimant testified that she never received the Notice of Noncompliance dated April 22, 2014. A review of the Notice of Noncompliance indicated that it was sent to a different address and Claimant testified that she submitted her change of address on January 31, 2014. See Exhibit 1, pp. 7-8. Nonetheless, Claimant discovered the denial notice via online. Due to her not receiving the noncompliance notice, Claimant missed the triage appointment. Finally, on April 30, 2014, Claimant

went to her local DHS office and received a printed copy of the noncompliance notice. Also, Claimant testified she spoke with the PATH manager via telephone. It should also be noted that the PATH caseworker testified that such degrees are not approved per policy and notified Claimant of this information back in April of 2013.

Work Eligible Individuals (WEIs) are FIP participants who count in the state and/or federal work participation rate. BEM 228 (July 2013), p. 3. All WEIs are required to participate in work-related activities (core or non-core) for a minimum number of hours based on case circumstances unless reasonable accommodations are required and other activities are planned. BEM 228, pp. 3-4.

Activities are specific actions the participant will take to reach the goal(s) and meet PATH requirements. BEM 228, p. 11. Activities are divided into three categories: core, non-core and other. BEM 228, p. 11. Core activities include subsidized private and public sector employment, work experience, on-the-job training, vocational educational training, etc...See BEM 228, pp. 11-12. Non-core activities are only countable when the minimum number of core activities has been planned. BEM 228, p. 13. Non-core activities include the following: job skills training directly related to employment; education directly related to employment; or high school completion/GED. See BEM 228, p. 13. Other activities are family strengthening activities that may support efforts made toward self-sufficiency and are not counted toward federal participation requirements. BEM 228, p. 13.

Required hours are the minimum number of hours per week on average the WEI is to participate in work-related activities to meet the federal work participation requirement. BEM 228, p. 14. The Department testified that Claimant has a 20-hour weekly requirement because Claimant's FIP group contains only one WEI when the youngest child in the group is less than six years old. BEM 228, p. 14. The client's actual hours of participation in paid work activities must be verified. BEM 230A, p. 23. The specialist may use two consecutive pay check stubs or wage statements that reflect the average number of hours worked by the client. BEM 230A, p. 23.

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

It is found that Claimant participated in employment and/or self-sufficiency related activities. First, it is evident that Claimant was only working approximately 10 hours per week for her employment. See Exhibit 1, p. 4. However, Claimant credibly testified that she submitted proof of her college education to the PATH program on March 18, 2014. Claimant's credibility is supported by the fact that the Department caseworker acknowledged that the Claimant was attending school. Claimant credibly testified that she reasonably thought her college education counts towards her PATH requirements.

Additionally, the PATH caseworker testified that such degrees are not approved per policy and notified Claimant of this information back in April of 2013. A review of policy

indicates that vocational educational training, including condensed vocational training is a core activity that counts towards the PATH requirements. See BEM 228, pp. 11-12. Also, policy indicates education directly related to employment is a non-core activity, which are only countable when the minimum number of core activities has been planned. BEM 228, p. 13. It is unclear if Claimant's college education meets any of the activity requirements. Nevertheless, the evidence is sufficient that Claimant is participating in employment and/or self-sufficiency related activities to increase her employability and/or obtain employment. See BEM 230A, p. 1. Claimant credibly testified that she was previously notified that her education counts towards the PATH requirements and provided such verification on March 18, 2014. Moreover, Claimant has made a reasonable effort in participating in the PATH program as documented by her submitted pay stubs. See Exhibit 1, p. 4. Because the Claimant was in compliance with the PATH program, the Department did not act 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 subsequent to the hearing, the Department would fax Claimant's Exhibit A to the Michigan Administrative Hearing System (MAHS). Exhibit A included Claimant's pay stubs, school schedule, and financial aid information, which she stated was e-mailed on March 18, 2014. These documents were received, but not timely. See Exhibit A. Even so, as stated above, it is found that Claimant credibly testified that she submitted such documentation and her FIP closure was improper. Therefore, the Department will reinstate FIP benefits and remove Claimant's sanction.

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 did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits for her first non-compliance effective June 1, 2014.

Accordingly, the Department's FIP 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. Remove Claimant's first FIP sanction from her case;
2. Reinstate Claimant's FIP case as of June 1, 2014;
3. Begin recalculating the FIP budget for June 1, 2014, ongoing, in accordance with Department policy;

4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from June 1, 2014, ongoing; and
5. Notify Claimant in writing of its FIP decision in accordance with Department policy.


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

Date Signed: **6/5/2014**

Date Mailed: **6/5/2014**

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 48909-07322

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]