

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 14-002827
Issue No.: 1008
Case No.: ██████████
Hearing Date: June 19, 2014
County: WAYNE-DISTRICT (57)

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 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████, Assistant Payment Supervisor.

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 April 9, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 17, 2014. Exhibit 1, pp. 6-7.
3. On April 9, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective May 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 8-10.

4. On April 17, 2014, Claimant failed to attend her triage appointment and her FIP case went into closure. See Exhibit 1, p. 1.
5. On May 15, 2014, Claimant filed a hearing request, protesting the FIP case closure. See Exhibit 1, p. 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 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.

In this case, Claimant was an ongoing recipient of FIP benefits. On April 9, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 17, 2014. Exhibit 1, pp. 6-7. On April 9, 2014, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective May 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 8-10. On April 17, 2014, Claimant failed to attend her triage appointment and her FIP case went into closure. See Exhibit 1, p. 1.

At the hearing, the Department was unable to provide evidence or testimony of Claimant's non-compliance, other than the Notice of Noncompliance stating no initial contact with Michigan Works! Agency (MWA). See Exhibit 1, p. 6. It appeared that the closure notice and triage occurred in Claimant's previous DHS office.

Claimant testified that she moved to her current address on or around December 28, 2013 and notified that Department of the change approximately three days after. Claimant testified that she participated in the PATH program by being employed. Claimant testified that she would provide copies of her pay stubs ever six months as her proof of being employed. According to the Claimant's testimony, it appeared that her non-compliance was the result her moving DHS locations and that correspondence was sent to the old address.

Additionally, Claimant testified that she received the Notice of Non-Compliance after the triage date. Claimant testified that it was sent to her previous address and was subsequently forwarded. Claimant testified that envelope containing the non-compliance notice had a yellow sticker on it indicating her forwarding address.

The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (March 2014), p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's FIP benefits effective May 1, 2014, ongoing. BAM 600, pp. 36 and 39. The evidence failed to show that Claimant did not participate in the PATH program. See BEM 230A, p. 1. Therefore, the Department failed to establish a non-compliance by the Claimant. See BEM 233A, pp. 1-3. Because the Department failed to establish the non-compliance, a good cause determination is not necessary. The Department will remove Claimant's non-compliance and reinstate the 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's FIP benefits effective May 1, 2014.

Accordingly, the Department's decision FIP 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 remove Claimant's first FIP sanction;
2. The Department shall reinstate Claimant's FIP case as of May 1, 2014, ongoing;
3. The Department shall begin recalculating the FIP budget for May 1, 2014 ongoing, in accordance with Department policy;
4. The Department shall supplement for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for May 1, 2014, ongoing, in accordance with department policy; and
5. The Department shall notify Claimant of the FIP determination in accordance with Department policy



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

Date Signed: **6/24/2014**

Date Mailed: **6/24/2014**

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]