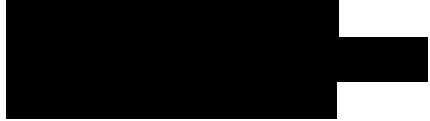


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



Reg. No.: 14-005462  
Issue No.: 1008  
Case No.: [REDACTED]  
Hearing Date: August 6, 2014  
County: Marquette

**ADMINISTRATIVE LAW JUDGE:** Darryl T. Johnson

**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 August 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist [REDACTED] and PATH Coordinator [REDACTED].

**ISSUE**

Did the Department properly close Claimant's Family Independence Program (FIP) benefits?

**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 on-going FIP recipient.
2. On February 13, 2014, the Medical Review Team (MRT) found Claimant was work-ready with some limitations; and Claimant was given a PATH Appointment Notice (Exhibit 1 Page 138) informing her that she was scheduled for a PATH appointment on February 25, 2014, at the Marquette County Michigan Works! office.
3. Claimant did not attend the PATH appointment.
4. Because of health issues, Claimant was deferred from PATH participation until March 18, 2014.

5. On March 18, 2014, the Department received an Assessment for FIP Participation from Claimant's doctor, indicating Claimant could work with some limitations. (Exhibit 1 Pages 159-160.)
6. On April 1, 2014, the Department mailed Claimant another PATH appointment notice, this time for April 8, 2014. (Exhibit 1 Page 162.)
7. On April 9, 2014, another PATH appointment notice was mailed, this time for April 15, 2014. (Exhibit 1 Page 163.)
8. On April 28, 2014, the Department mailed to Claimant a Notice of Noncompliance, imposing a three-month FIP sanction. (Exhibit 1 Pages 172-173.)
9. Also on April 28, 2014, the Department mailed to Claimant an NCA (Exhibit 1 Pages 164-171), closing her FIP, effective June 1, 2014.
10. On May 8, 2014, the Department conducted a triage meeting with Claimant and found that she did not show good cause for not participating in PATH. (Exhibit 1 Pages 174-175.)
11. On June 18, 2014, the Department received a Medical Needs – PATH form from Claimant's new doctor, indicating she could not work at her usual occupation, but not stating whether she could work at any job. It also indicated she could lift up to 10 pounds for 1/3 of an 8-hour day, she could stand and/or walk less than 2 hours in an 8-hour workday, and she could sit about 6 hours in an 8-hour day. (Exhibit 1 Pages 179-180.)
12. On June 25, 2014, the Department received Claimant's hearing request.

### **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 PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not

return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.”

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH.” BEM 233A p 11 (7/1/13).

Per BEM 233A, “good cause for non-compliance” are based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.”

The Claimant presented evidence that she has medical issues that impede her ability to work. However, her doctors did not assert that she was unable to work in any occupation. She has not established sufficient evidence of an illness or injury that would excuse her from participation in the PATH program. In her Hearing Request (Exhibit 1 Page 2), she stated that she “went and visited with Dr. Dank on June 6<sup>th</sup>, 2014. It is at this appointment that he had told me he ‘would not throw my girls and I out on the street.’” Yet, when Dr. Dank completed the medical form (Exhibit 1 Pages 179-180) and had the opportunity to state that Claimant could not work at any job, he did not check the corresponding box. Instead, the form suggests that Claimant is capable of working at some jobs even though she “would have difficulty working due to her chronic foot pain.” Because he did not indicate she was unable to work at all, the Claimant did not establish good cause for non-compliance prior to the negative action effective date.

Claimant has presented a case that evokes sympathy, but sympathy cannot play a part in this decision. 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 determined that Claimant failed to comply with the PATH requirements, and that she failed to show good cause for her non-compliance.

**DECISION AND ORDER**

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



Darryl T. Johnson  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **8/8/2014**

Date Mailed: **8/8/2014**

DTJ / jaf

**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:

