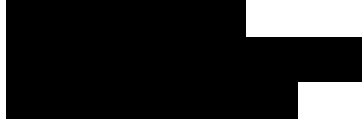


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-006991
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: AUGUST 14, 2014
County: WAYNE-DISTRICT 31

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for noncooperation with employment-related activities?

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 May 14, 2014, the Department sent Claimant a PATH Appointment Notice requiring her to attend the PATH orientation on May 27, 2014.
3. Claimant did not attend the orientation.
4. On June 2, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the FIP-related work participation program and scheduling a triage on June 11, 2014 and (ii) a Notice of Case Action notifying her that her FIP case would close effective July 1, 2014 for a three-month minimum because she had failed to participate in employment-related activities.

5. Claimant did not attend the triage, and the Department concluded that she did not have good cause for her noncompliance.
6. On July 2, 2014, Claimant filed a request for hearing disputing 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.

Additionally, 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 2013), p. 1; BEM 233A (July 2013), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to appear and participate in employment and/or self-sufficiency-related activities or provide legitimate documentation of work participation. BEM 233A, p. 2.

In this case, the Department alleged that Claimant was in noncompliance with her FIP obligations because she had failed to comply with the May 14, 2014 PATH Appointment Notice requiring her to attend a May 27, 2014 PATH orientation. At the hearing, Claimant admitted she received the May 14, 2014 PATH Appointment Notice advising her to attend a May 27, 2014 PATH appointment but explained that she did not attend the meeting because she was already participating in the PATH program and providing job search logs as her work participation obligation.

Mandatory PATH clients are referred to PATH (i) upon application for FIP, (ii) when a client's reason for deferral ends, or (iii) a member add it requested. BEM 229 (July 2013), p. 3. In this case, the Department testified that Claimant initially was on her grandfather's case, and, after her grandfather moved out of the home in February 2014, she became the grantee on the case and received ongoing FIP benefits. According to the Department, Claimant initially met her FIP-related work participation obligation by attending high school. See BEM 230A, p. 7. The Department further testified that, once Claimant stopped attending high school, she was referred to PATH.

Although it is unclear whether Claimant completed the 21-day PATH application eligibility period (AEP) (or whether, under the facts presented, she was subject to the 21-day AEP), both Claimant and the Department's testimony established that Claimant was attending PATH *before* she was sent the PATH Appointment Notice. According to the Department, Claimant became noncompliant with PATH and was consequently sent the May 14, 2014 PATH Appointment Notice. However, when a client is noncompliant with the PATH program, the Department sends the client a notice of noncooperation, not a referral back to the PATH program. BEM 233A, pp. 10-11.

In this case, because there was no evidence that Claimant had a new application for FIP or member add request or that she had a deferral reason that had ended, the Department failed to establish that it acted in accordance with Department policy when it sent Claimant the PATH Appointment Notice requiring her to attend the May 27, 2014 PATH orientation. Because the Department failed to satisfy its burden of showing that Claimant was referred to the PATH program in accordance with policy, the Department cannot establish a noncompliance based on her failure to attend the May 27, 2014 orientation.

Therefore, under the facts presented, where Claimant received FIP benefits and had been previously referred to, and attending, PATH, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case for noncompliance with employment-related activities for failing to attend a PATH orientation and imposed the three-month sanction.

It is noted that there was testimony by Claimant at the hearing concerning her failure to participate in required PATH activities in early June 2014. Because the Department based its decision to close Claimant's FIP case on her failure to attend the May 27, 2014 orientation, any other incidents concerning the PATH program are not considered in this Hearing Decision.

DECISION AND ORDER

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 the FIP employment-related sanction applied on or about July 1, 2014 from Claimant's record;
2. Reinstate Claimant's FIP case effective July 1, 2014; and

3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from July 1, 2014 ongoing.



Alice C. Elkin

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

Date Signed: **8/19/2014**

Date Mailed: **8/19/2014**

ACE / ttf

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:

