

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-007909
Issue No.: FIP, FAP
Case No.: [REDACTED]
Hearing Date: September 17, 2014
County: Roscommon County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on September 17, 2014, from Roscommon, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED], sister. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Case Manager, [REDACTED], Career Transition Coordinator, [REDACTED], PATH Coordinator, and [REDACTED], General Services Program Manager.

ISSUES

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

Did the Department properly decrease the Claimant's FAP group's monthly allotment due to the FIP sanction?

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 a recipient of FIP benefits and a mandatory PATH participant.
2. Claimant was a recipient of FAP benefits.
3. On July 14, 2014, the Department mailed Claimant a letter of Noncompliance (DHS-2444) based on missed appointment/meeting.
4. On July 14, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective August 1, 2014, due to an alleged violation of the PATH program requirements and that the FAP monthly allotment

would decrease to \$ [REDACTED] for the remaining group members as the Claimant was no longer eligible due to the FIP non-compliance.

5. On July 23, 2014, the Claimant filed a request for hearing contesting the Department's action.

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).

FIP

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.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each Work Eligible Individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A, 10-1-2013, p. 1.

A WEI and non-WEIs¹, who fails to participate in employment or self-sufficiency-related activities without good cause, must be penalized. Depending on the case situation, penalties include the following: delay in eligibility at application; ineligibility (denial or termination of FIP with no minimum penalty period); case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM 233A, 7-1-2013, p. 1.

Noncompliance of applicants, recipients, or member adds includes, without good cause, failing or refusing to: appear and participate with PATH or other employment service provider; appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

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. A claim of good cause must be verified and documented for member adds and recipients. The policy lists several circumstances for good cause, including the client having an unplanned event or factor such as homelessness. BEM 233A, pp. 4 and 6. (Emphasis added by ALJ)

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233 A, pp. 9-10.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements due to missed appointment/meeting. Specifically, Claimant failed to report to the Michigan Works Agency (MWA) on June 24, 2014, as assigned to submit paperwork and to call in if she could not come in as assigned. On June 25, 2014, a Noncompliance Warning Notice was issued to Claimant stating that she must attend a reengagement appointment on June 30, 2014, at MWA to avoid triage and potential FIP case closure. The reengagement appointment was re-scheduled for Claimant twice, to July 9, 2014, and then July 14, 2014. (Exhibit A, p. 9, Case Manager Testimony) On July 14, 2014, the Department mailed Claimant a letter of Noncompliance based on missed appointment/meeting. (Exhibit A, page 33) A Triage Meeting Notice was also issued to Claimant on July 14, 2014, that provided further details of the alleged non-compliance: failure to attend noncooperation warning/reengagement appointments; no paperwork submitted or excused documentation supporting housing issues submitted for the weeks beginning 6/15, 6/22, 6/29, and 7/6; and failure to re-schedule appointment on 7/2 as assigned. (Exhibit A, p. 10) A triage meeting was held with Claimant on July 23, 2014, and the Department did not find good cause for the non-compliance.

Claimant asserts she thought the noncompliance was for a missed appointment/meeting on July 14, 2014 because this is what was stated on the July 14, 2013, Notice of Noncompliance. (Exhibit A, p. 33) The PATH Coordinator explained that the date the Department's computer system puts into that portion of the Notice of Noncompliance form is the date MWA put Claimant into non-compliance and it cannot be changed by the local office. While this understandably could cause some confusion, the evidence shows Claimant received other forms giving more complete information for the alleged non-compliance. Specifically, the above noted July 14, 2014, Triage Meeting Notice was sent the same date as the Notice of Noncompliance, and Claimant was previously sent the June 25, 2014, Noncompliance Warning Notice. (Exhibit A, pp. 9-10)

Claimant stated that she had submitted some documentation of the eviction. It was uncontested that Claimant had provided the Summons paperwork for a June 10, 2014

court date. (Exhibit 1) However, there was no evidence Claimant submitted any verification of what happened after the June 10, 2014 court date. As indicated on the July 14, 2014, Triage Meeting Notice, the alleged non-compliance was based on: failure to attend noncooperation warning/reengagement appointments; no paperwork submitted or excused documentation supporting housing issues submitted for the weeks beginning 6/15, 6/22, 6/29, and 7/6; and failure to re-schedule appointment on 7/2 as assigned. All these dates are after the June 10, 2014 court date that was verified by the court Summons.

Claimant provided detailed testimony that she was very busy making all the needed arrangements due to the eviction (garage sale, getting boxes, packing, moving things to a storage unit, etc.) on her own due to J.C. being incarcerated and the heat stroke illness verbally reported to MWA during this time. Claimant also explained that the needed documentation appears to have been inadvertently packed by a friend that was helping her, so currently it is not accessible as it is in a box somewhere in the storage unit.

The evidence shows MWA tried to work with Claimant. Claimant was not sent to triage as soon as she missed the first appointment, June 23, 2014. Rather, a reengagement appointment was scheduled to try to resolve any issues. The reengagement appointment was then re-scheduled twice for Claimant. Claimant never made any of these appointments. The BEM 233A policy requires that a claim of good cause be verified. Claimant did not provide any verification addressing the weeks at issue, such documentation of: other necessary appointment(s) that conflicted with her scheduled MWA appointments, what happened after the June 10, 2014, court date with the eviction, or other steps she was taking to address the barrier caused by the eviction.

The Claimant has not provided sufficient evidence of good cause for the non-compliance of missed appointments. Accordingly, the closure and sanction of the Claimant's FIP case based on her noncompliance with the PATH program requirements is upheld.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the two situations, one of which is when client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233 B, 7-1-2013, p. 1.

A FAP group member is disqualified for noncompliance when all the following exist: the client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance; the client did not comply with FIP/RCA employment requirements; the client is subject to a penalty on the FIP/RCA program; the client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B); and the client did not have good cause for the noncompliance. BEM 233 B, p. 3.

In this case, Claimant was active for both FAP and FIP on the date of noncompliance; Claimant did not comply with the FIP employment requirements for PATH; Claimant is subject to a penalty for FIP; the Claimant was not deferred from FAP work requirements; and good cause has not been established for Claimant's non-compliance. Accordingly the determination to disqualify Claimant from the FAP group, resulting in the decrease in the FAP group's monthly allotment, is upheld.

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 closed and sanctioned the Claimant's FIP case based on his noncompliance with the PATH program requirements and when it reduced Claimant's FAP group's monthly allotment based on the FIP sanction.

DECISION AND ORDER

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



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

Date Signed: **9/25/2014**

Date Mailed: **9/25/2014**

CL/ hj

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:

