

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009512
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: September 11, 2014
County: WAYNE-DISTRICT 76

ADMINISTRATIVE LAW JUDGE: Susan Burke

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 September 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], PATH Coordinator, and [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to failure to participate in 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. On [REDACTED], the Department issued a Notice of Case Action, informing Claimant that her FIP case would close, effective [REDACTED], due to failing to participate in employment-related activities.
2. Claimant participated in employment-related activities.
3. Claimant filed a hearing request on [REDACTED]

CONCLUSIONS OF LAW

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 Department requires Work Eligible Individuals (WEI) seeking FIP to participate in employment and self-sufficiency-related activities. BEM 233A (7/1/2013) Failing, without good cause, to participate in employment or self-sufficiency-related activities results in the WEI being penalized. *Id.* Good cause is a valid reason for noncompliance that is based on factors that are beyond the control of the noncompliant person. *Id.*

In the present case, Claimant did not receive a notice of a triage (Notice of Noncompliance) until after the triage occurred. Claimant moved on [REDACTED] and reported her change of address on [REDACTED]. Even though Claimant was to report her change within 10 days of her move, per BAM 105 (4/1/2014), this is found to be harmless error, as the Department would then have had to act on the address change. For example, if Claimant had reported the address change on [REDACTED], the Department would nevertheless have already sent the Notice of Noncompliance on [REDACTED], still allowing for the circumstance of Claimant not receiving the notice in a timely manner. It is also noted that the Notice of Noncompliance was issued on [REDACTED] and the triage was set for [REDACTED], giving less than a week's notice of the appointment.

In addition, the Department alleged that Claimant failed to attend a reengagement appointment on [REDACTED], but the Department did not present for examination at the hearing the notice of the appointment. Without examination of the appointment for reengagement, it cannot be concluded that the Department or PATH worker acted in accordance with Department policy.

The PATH case manager at the hearing testified that had [REDACTED] been aware that Claimant had been working, it is likely that [REDACTED] would have simply initiated a job change and not held Claimant in non-compliance.

It appears that both the Department and Claimant did not completely comply with Department policy. However, the underlying issue is that Claimant was in fact participating in employment-related activities, but due to lack of communication between the Department and Claimant, the fact of compliance was not noted.

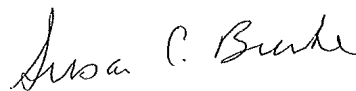
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case.

DECISION AND ORDER

Accordingly, the Department's 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 sanction from Claimant's FIP case.
2. Reinstate Claimant's FIP case, effective [REDACTED].
3. Issue FIP supplements, in accordance with Department policy.



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

Date Signed: **9/19/2014**

Date Mailed: **9/19/2014**

SCB / hw

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:

