

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-009903
Issue No.: 1008
Case No.: ██████████
Hearing Date: September 17, 2014
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

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 September 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist Case Manager.

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 May 20, 2014, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice, which scheduled Claimant for a PATH appointment on June 2, 2014. See Exhibit 1, p. 6.
3. Claimant did not attend the scheduled appointment on June 2, 2014.
4. On June 4, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on June 12, 2014. Exhibit 1, p. 7.

5. Claimant did not attend the triage appointment on June 12, 2014.
6. On June 12, 2014, the Department sent Claimant another PATH Appointment Notice, which scheduled Claimant for a PATH appointment on June 23, 2014. See Exhibit 1, p. 8.
7. Claimant did not attend the scheduled appointment on June 23, 2014.
8. On June 27, 2014, Claimant submitted an updated mailing address and other documentation at the local DHS office. See Exhibit A, p. 1.
9. On July 1, 2014, the Department mailed Claimant a Notice of Noncompliance (previous address) scheduling Claimant for a triage appointment on July 7, 2014. Exhibit 1, p. 9.
10. Effective August 1, 2014, Claimant's FIP benefits closed due to the non-cooperation (1st offense). See Exhibit 1, p. 3.
11. On July 7, 2014, Claimant did not attend her triage appointment; however, the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities.
12. On July 30, 2014, the Department updated Claimant's mailing address. See Exhibit 1, p. 5.
13. On August 4, 2014, Claimant filed a hearing request, disputing the Department's action. See Exhibit 1, p. 2.

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 determined during triage. BEM 233A, 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. 3. 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. 3-5.

In this case, Claimant was an ongoing recipient of FIP benefits. On May 20, 2014, the Department sent Claimant a PATH Appointment Notice, which scheduled Claimant for a PATH appointment on June 2, 2014. See Exhibit 1, p. 6. Claimant did not attend the scheduled appointment on June 2, 2014. However, Claimant testified that she and her school counselor contacted the Department on June 2, 2014, informing it that she had to attend school and/or a clinical on the same day as the PATH appointment. Thus, the Claimant testified that the Department informed her that she would have her PATH appointment rescheduled.

Nevertheless, on June 4, 2014, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on June 12, 2014. Exhibit 1, p. 7. Specifically, the Notice of Noncompliance indicated the non-compliance was based on a failure to complete the Family Self-Sufficiency Plan (FSSP). See Exhibit 1, p. 7 and BEM 228 (July 2013), pp. 1-28. The Department testified that Claimant did not attend the triage appointment on June 12, 2014. Claimant testified that she did not attend the first triage appointment on June 12, 2014 because she was already notified of the rescheduled appointment beforehand.

On June 12, 2014, the Department sent Claimant another PATH Appointment Notice, which scheduled Claimant for a PATH appointment on June 23, 2014. See Exhibit 1, p. 8. Claimant did not attend the scheduled appointment on June 23, 2014. Claimant testified that she suffered a medical injury (dental issues) on June 21, 2014. On June 23, 2014, Claimant testified that she had a dental procedure on the same day of the scheduled PATH appointment. On June 27, 2014, Claimant testified she submitted an updated mailing address and proof of her dental procedure at the local DHS office. The Department confirmed receipt of the updated mailing address on June 27, 2014. Moreover, on July 30, 2014, the Department updated Claimant's mailing address. See Exhibit 1, p. 5. The Department testified that it did not receive the medical excuse/barrier on June 27, 2014. Furthermore, Claimant testified that she contacted her DHS case worker on June 27, 2014; however, did not receive any contact back. The Department did not recall contact from the Claimant on June 27, 2014.

During the hearing, Claimant provided a copy of her dental appointment that she alleged that she dropped off on June 27, 2014. See Exhibit A, p. 1. Claimant provided an excuse for dental appointment that was scheduled on June 23, 2014. See Exhibit A, p. 1. Also, as part of Claimant's exhibit, the evidence indicated that Claimant did submit other documentation with her mailing update on June 27, 2014. See Exhibit A, p. 1.

On July 1, 2014, the Department mailed Claimant a Notice of Noncompliance (previous address) scheduling Claimant for a triage appointment on July 7, 2014. Exhibit 1, p. 9. Claimant testified that she did not receive the Notice of Noncompliance because it was sent to the previous address, which also resulted in her not attending the triage appointment.

Effective August 1, 2014, Claimant's FIP benefits closed due to the non-cooperation (1st offense). See Exhibit 1, p. 3.

On July 7, 2014, Claimant did not attend her triage appointment; however, the Department found no good cause for Claimant's failure to attend employment and/or self-sufficiency related activities. On August 4, 2014, Claimant filed a hearing request, disputing the Department's action. See Exhibit 1, p. 2.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective August 1, 2014.

First, it is found that Claimant rebutted the presumption of proper mailing that she did not receive the Notice of Noncompliance dated July 1, 2014. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The evidence presented that Claimant submitted her updated mailing address on June 27, 2014, which was before the Notice of Noncompliance was generated. See Exhibit 1, pp. 5 and 9. It should be noted that policy allows the Department to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January and July 2014), p. 6 and see also BAM 105 (April 2014), p. 9. Based on the above information, even though policy allows the Department to act upon the changes within 10 days of becoming aware of the change, it did not act on the change until July 30, 2014. See Exhibit 1, p. 5 and BAM 220, p. 6.

Second, it was discovered subsequent to the hearing that the Department failed to notify Claimant of the FIP case closure by generating the appropriate notice of case action. Both parties did not dispute that the FIP benefits closed effective August 1, 2014. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1. There are two types of written notice: **adequate** and **timely**. BAM 220, p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). BAM 220, p. 2. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p.

4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p. 4. Even though the Claimant filed a hearing request timely and she testified that she received a notice of the case closure on August 4, 2014, the Department failed to provide actual proof that a the notice of case action was generated. See BAM 220, pp. 2 and 4.

Third, even if Claimant was found in non-compliance, she has provided a good cause reason for not attending the scheduled appointment on June 23, 2014. Good cause includes if the client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. BEM 233A, p. 5. Claimant credibly testified that she submitted evidence of her dental procedure on June 27, 2014. The evidence indicated that Claimant submitted other documentation with her updated mailing address on June 27, 2014. See Exhibit A, p. 1. This evidence supports Claimant's assertion that she submitted her proof of her dental appointment June 27, 2014, which showed a conflicting illness or injury on the date of the PATH appointment. Moreover, the submission of the good cause reason occurred before the triage date, thus, the Department had verification of the illness or injury when it conducted a good cause determination on July 7, 2014 (triage date). See BEM 233A, pp. 4 and 9-10.

Based on this information, the evidence presented a good cause reason for the noncompliance, which was verification that Claimant suffered an illness or injury. See BEM 233A, pp. 3 and 5. Therefore, the Department will remove Claimant's first FIP non-compliance and reinstate her FIP benefits effective August 1, 2014, ongoing, in accordance with Department policy. BEM 233A, p. 1.

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 did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits effective August 1, 2014.

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 Claimant's first FIP sanction/disqualification from her case;
2. Reinstate Claimant's FIP case as of August 1, 2014; and

3. Issue supplements to Claimant for her FIP benefits effective August 1, 2014, ongoing.


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

Date Signed: **9/22/2014**

Date Mailed: **9/22/2014**

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]