

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

IN THE MATTER OF:

██████████
██████████████████
██████████

Reg. No.: 14-010950
Issue No.: 1008
Case No.: ██████████
Hearing Date: November 20, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 November 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's friend. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator; ██████████, Case Manager; ██████████, PATH Coordinator; and ██████████, DHS Coordinator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits for failure to participate in employment and/or self-sufficiency 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. Claimant applied for deferral status from the PATH program based upon a disability.
3. Claimant request for deferral status was denied.
4. Claimant was referred to the PATH program on several occasions with the last appointment date occurring on August 4, 2014.

5. On August 4, 2014, Claimant appeared for the PATH appointment but was unable to remain as she had been requested to appear at court as the result of a domestic violence attack.
6. On August 6, 2014, the Department sent Claimant a Notice of Noncompliance scheduling a meeting on August 14, 2014 to discuss her noncompliance with the PATH program.
7. Also, on August 6, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective September 1, 2014 for failure to participate in employment and/or self-sufficiency related activities.
8. The Department found that Claimant failed to establish good cause for her noncompliance with the PATH program.
9. On August 25, 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, Department policy requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. BEM 223A (7/2013), p. 1.

A Work Eligible Individual (WEI) and non-WEIs who fails, without good cause, to participate in employment or self-sufficiency-related activities, 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.

In this case, Claimant requested a deferral from attending the PATH program due to disability. The Medical Review Team denied Claimant's request for deferral and as such, she was referred to the PATH program. The Department testified that a PATH Appointment Notice dated June 19, 2014 was sent to Claimant with an appointment date of June 30, 2014. Claimant acknowledged receipt of this Notice. Claimant agreed that she informed the Department that she was unable to attend because the father of her child was unable to care for the child. The Department testified and Claimant agreed that the appropriate child care forms were given to Claimant but not returned.

The Department stated that a Notice of Noncompliance dated July 9, 2014 was sent to Claimant scheduling an appointment for July 17, 2014 to discuss her failure to attend PATH. Claimant acknowledged receipt of this document and appeared for the July 17, 2014 meeting. At that meeting, Claimant was told that she would be rescheduled for PATH on July 28, 2014.

The Department testified that two PATH Appointment Notices both dated July 17, 2014 were sent to Claimant. One scheduled Claimant for a PATH Appointment on July 21, 2014 and the other scheduled Claimant for a PATH Appointment on July 28, 2014. Claimant denied receiving as many PATH Appointment Notices as the Department claimed it sent and it appears that these are two of the notices that Claimant states she did not receive. However, on July 29, 2014, Claimant appeared for a prehearing conference and stated that she attended PATH the day before but could not remain because she had a doctor's note stating she could not return to work until July 29, 2014. The Department was in receipt of this document. As such, it is found that Claimant received the PATH Appointment Notices dated July 17, 2014.

The Department testified that a PATH Appointment Notice dated July 29, 2014 was sent to Claimant with an appointment date of August 4, 2014. Claimant acknowledged that she received this document. Further, Claimant stated that she appeared for the appointment but informed Department staff that she could not remain because she was scheduled to appear in court on that same day. The Department requested that Claimant provide verification that she had a court date on August 4, 2014. Presumably, the Department requested this verification intending to find good cause for failure to attend PATH if Claimant was scheduled to appear in court on August 4, 2014.

Department policy allows for a finding of good cause if there is an unplanned event or factor. Regarding an unplanned event or factor, Department policy states as follows: [c]redible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to domestic violence. BEM 233A, p. 6.

Claimant testified that she was a victim of domestic violence and suffered an attack at the hands of her son. As a result of the attack Claimant had several court dates. The

August 4, 2014 court date was as a result of the attack. Claimant appeared for the PATH appointment and informed Department staff that she had a court date on August 4, 2014. Claimant verbally told her assigned worker that she had a court date on August 4, 2014. Claimant testified that she provided the court information to the Department. Although the Department denies that it received verification of the August 4, 2014 court date, it is clear that Claimant in fact was required to appear in court on August 4, 2014. The Department testified that the PATH appointment on August 4, 2014 would have lasted all day.

While it is clear that the Department attempted to accommodate Claimant each time she indicated she was unable to attend PATH, it is found that the August 4, 2014 court date falls under an unplanned event or factor allowing for a finding of good cause. As such, the Department should have re-referred Claimant to the PATH program.

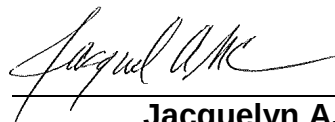
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it closed Claimant's FIP case for non-compliance with the PATH program.

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. Reinstate Claimant's FIP benefits effective September 1, 2014, ongoing;
2. Issue FIP supplements to Claimant effective September 1, 2014, ongoing; and
3. Re-refer Claimant to the PATH program.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/25/2014**

Date Mailed: **11/25/2014**

JAM / tlf

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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]