

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011938
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: October 15, 2014
County: Kent-1 (Franklin)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 three-way telephone hearing was held on October 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her sister, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED], Family Independence Manager [REDACTED], and Career Coach [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) and impose a second sanction for non-compliance with the PATH program?

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 FIP recipient.
2. On June 2, 2014, Claimant attended PATH orientation.
3. On June 17, 2014, Claimant signed the rules for the PATH program (Exhibit 1 Page 9) acknowledging, among other responsibilities, that she could be penalized for falsifying job search logs.
4. Claimant was given a warning on July 14, 2014, about falsifying job search logs, and about the limitation against applying with the same employer more than once in a 30-day period.

5. On July 25, 2014, Claimant signed a re-engagement agreement, allowing her to continue in the PATH program if she complied with program requirements.
6. On August 22, 2014, Claimant turned in several job search logs. (Exhibit 1 Pages 20-30.)
7. The Department found multiple instances where Claimant reported applying to the same employer, at the same address, within 30 days.
8. Claimant's job search hours were not in compliance with program requirements.
9. The Department mailed a Notice of Noncompliance (Exhibit 1 Page 7-8) informing her that she was not compliant, and scheduling a triage for September 3, 2014. It also informed her that she was facing closure of her FIP for a minimum of six months because it was at least her second time of non-compliance with program requirements.
10. On September 3, 2014, triage was held over the phone and Claimant was found to have not established good cause for her non-compliance.
11. The Department received Claimant's hearing request on September 11, 2014.

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.

The PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.”

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP

disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH.” BEM 233A p 11 (7/1/13).

Per BEM 233A, “good cause for non-compliance” are based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.”

Claimant testified that she lacked transportation, so she could only go to so many places to apply for work. She went to the [REDACTED], a shopping mall, and applied “everywhere,” but “half of the places weren’t taking applications.” The following table identifies the employers where she duplicated her applications within 30 days.

Employer	Application Date	Application Date
[REDACTED]	8/1/14	8/8/14
[REDACTED]	7/30/14	8/8/14
[REDACTED]	7/15/14	8/13/14
[REDACTED]	8/1/14	8/4/14
[REDACTED]	7/5/14	8/11/14
[REDACTED]	7/22/14	8/12/14
[REDACTED]	8/1/14	8/6/14
[REDACTED]	7/21/14	8/12/14
[REDACTED]	7/15/14	8/11/14

Claimant was given an opportunity to explain her duplicate applications during the triage. Her only response was that she was in a high-risk pregnancy. Claimant is not a credible witness. Her testimony changed during the course of the hearing. She testified that she applied “everywhere” at the mall, but when asked when she went to the mall she said it was on August 13, a date when she only recorded three applications. All three employers, noted on that date, have an address of [REDACTED]. The only other entries showing that address are [REDACTED], on July 15, 2014, [REDACTED], on August 11, 2014, and [REDACTED] on August 12, 2014. In the online directory for the mall [REDACTED]/directory there are more than 130 stores listed. It is simply not credible for Claimant to state that she applied “everywhere” in the mall if she only completed applications at five of the stores in that mall.

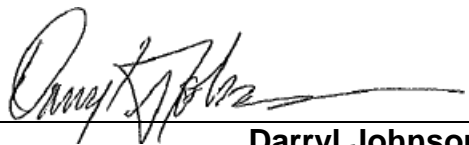
Claimant also claimed that her job search was hindered by her lack of transportation. It is noted that the Case Notes from her career coach (Exhibit 1 Pages 2-4) that she received assistance for transportation on August 8, 19, and 22.

Claimant had the opportunity to show good cause for her noncompliance. She failed to comply with the Department, and she failed to show good cause for her noncompliance. She did not provide a satisfactory explanation for why she felt it was necessary to report duplicate applications with the same employer on nine different occasions.

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 determined that Claimant failed to comply with the training requirements, and that she failed to show good cause for her non-compliance.

DECISION AND ORDER

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


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

Date Signed: **10/20/2014**

Date Mailed: **10/20/2014**

DJ / jaf

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:

