

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012087
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: December 3, 2014
County: SAGINAW

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 telephone hearing was held on December 3, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED], PATH Triage Specialist [REDACTED], and PATH Assistant Manager [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits and impose a 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 an on-going FIP recipient.
2. On July 10, 2014, the Department mailed to Claimant a notice of an appointment for the PATH program scheduled for July 17, 2014. (Exhibit 1 Page 16.)
3. On July 11, 2014, the Department terminated Claimant from the PATH program and subsequently reinstated her.
4. On July 16, 2014, Claimant met with her Department case worker; and the case worker, as well as the manager, told her that she did not need to attend the PATH appointment.

5. Claimant did not attend the PATH appointment on July 17, 2014.
6. A triage meeting was scheduled on July 21, 2014, for Claimant to establish good cause for missing the July 17 appointment. (Exhibit 1 Pages 20 and 22.) The appointment was scheduled for July 29, 2014.
7. On July 21, 2014, the Department informed Claimant that her FIP would be closed as of September 1, 2014, and she would be subject to a six monthly penalty period during which she could not receive FIP. (Exhibit 1 Pages 24-28.)
8. On July 24, 2014, the Department received a medical note from Claimant, and a supervisor noted "good cause given." (Exhibit 1 Page 29.)
9. Claimant did not attend the triage meeting and was found not to have good cause. (Exhibit 1 Page 30.)
10. On August 4, 2014, the Department received Claimant's hearing request.

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.

As stated in BEM 233A,

DHS 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.

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.

If a client does not comply with self-sufficiency activities or work, they can be penalized:

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of

applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with PATH or other employment service provider.

* * *

- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.

If a client does not comply, they can avoid penalties by showing they had good cause for non-compliance.

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. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

BEM 233A lists a number of examples of good cause. Here, Claimant was told to show up for an appointment on July 29 to establish good cause for missed appointment. Three days after that notice was mailed, she took a medical note in to the Department, and they found that she had good cause for missing the PATH appointment. Understandably, she did not attend the triage. But, because she did not attend the triage, the Department found she had not established good cause.

The Department found good cause based upon the medical note, but later noticed that the note did not encompass the date of the original missed appointment. At that point, they “rescinded” the finding of good cause and expected her to attend the triage. But, they had already told her she had shown good cause and did not need to attend the triage, and there is no evidence that the Department notified Claimant that she was once again expected to attend the triage.

Claimant presented compelling testimony that she was actively engaged in the PATH program, and it was allowing her to thrive. She had a prior instance of non-compliance but had come to realize how she could use the program to improve her situation.

The penalties for non-compliance are found at page 1 of BEM 233A:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, 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.

Because the Claimant was found to have established good cause for missing the prior meeting, and because there is no evidence that she was instructed that she still needed to attend the triage (and the evidence actually establishes that she was told she did NOT need to attend the triage), the undersigned finds, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Claimant's FIP and imposed a six-month penalty period.

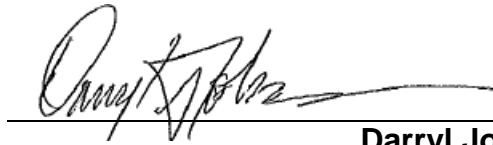
DECISION AND ORDER

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. The Department shall initiate a reinstatement of Claimant's FIP benefits.

2. The Department shall take steps to see that Claimant's second non-compliance (sanction) is deleted from Bridges.



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

Date Signed: **12/5/2014**

Date Mailed: **12/5/2014**

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 48909-8139

cc:

