

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

**IN THE MATTER OF:**

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

Reg. No.: 14-015055  
Issue No.: 1008  
Case No.: ██████████  
Hearing Date: December 03, 2014  
County: Wayne Pathways To Potential

**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**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 Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Success Coach from Pathways to Potential.

**ISSUE**

Did the Department properly close Claimant's Family Independence Program (FIP) case based on a 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. Claimant was previously deferred from participation in the PATH program because she was pregnant and had recently given birth.
3. Claimant's deferral ended and on September 22, 2014, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on September 29, 2014. (Exhibit 1)

4. On October 23, 2014, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on October 30, 2014, to discuss whether good cause existed for her noncompliance. (Exhibit 3)
5. On October 23, 2014, the Department sent Claimant a Verification Checklist informing her that the triage meeting had been rescheduled and that it was now to be held at a different location on October 29, 2014. (Exhibit 2)
6. Claimant's FIP case was scheduled to close effective December 1, 2014, and a three month sanction imposed.
7. On October 30, 2014, Claimant submitted a hearing request 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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (October 2014), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. BEM 233A, pp. 4-6.

Good cause can include any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with

employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A, p. 9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (October 2014). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, pursuant to BEM 203A and BEM 229, because Claimant's temporary deferral ended, on September 22, 2014, the Department sent Claimant a PATH Appointment Notice instructing her to attend the PATH orientation on September 29, 2014. (Exhibit 1); BEM 230A (October 2014), pp.14-15; BEM 229 (July 2013), pp.3-6. The Department testified that because Claimant did not attend PATH orientation on September 29, 2014, and because the Department did not receive any communication from Claimant concerning her inability to attend the PATH appointment, Claimant was placed in noncompliance with work-related activities. On October 23, 2014, the Department sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on October 30, 2014, to discuss whether she had good cause for her noncompliance. (Exhibit 3). The same day, on October 23, 2014, the Department sent Claimant a Verification Checklist informing her that the triage meeting had been rescheduled and that it was now to be held at a different location on October 29, 2014. (Exhibit 2).

A triage was conducted on October 29, 2014, which Claimant did not attend. At the triage, the Department determined that Claimant did not have good cause for her failure to attend the PATH orientation, and initiated the closure of her FIP case effective December 1, 2014, imposing a three month sanction for the first occurrence of noncompliance. (Exhibit 3). The Department stated that a Notice of Case Action informing Claimant of the case closure and imposition of the sanction was not sent to Claimant.

At the hearing, Claimant testified that she did not attend the PATH orientation and the triage because she did not receive the notices informing her of the appointments. Claimant testified that she received the Notice of Noncompliance informing her of the triage originally scheduled for October 30, 2014; however, she did not receive the Verification Checklist with the rescheduled triage date. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, 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). Although the PATH Appointment Notice and Verification Checklist were sent to Claimant at her confirmed mailing address, Claimant credibly testified that she has issues with receiving mail. Claimant stated that she reported the problems to the post office and was informed that she should get a PO Box; however, Claimant stated because she does not have transportation, she would not be able to go to the post office daily to check her PO Box. Claimant stated and the Department confirmed that Claimant notified the Department of the issue she was having receiving mail as well. Thus, Claimant has presented sufficient evidence to rebut the presumption that she received the PATH Appointment Notice and the Verification Checklist informing her of the rescheduled triage date.

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 determined that Claimant did not have good cause for her failure to participate in employment-related activities, closed Claimant's FIP case and imposed a three month sanction.

### **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 that was imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective the date of closure, December 1, 2014;

3. Issue FIP supplements to Claimant from December 1, 2014, ongoing, in accordance with Department policy; and
4. Notify Claimant of its decision in writing.



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**Zainab Baydoun**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **12/8/2014**

Date Mailed: **12/8/2014**

ZB / 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]