

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015660
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: December 08, 2014
County: WAYNE- 49

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly impose a Lifetime FIP sanction for failure to participate in 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. The Claimant was an ongoing recipient of FIP cash assistance and Food Assistance
2. A Notice of Case Action dated August 28, 2014 was issued which imposed a lifetime sanction closing the Claimant's cash program effective October 1, 2014, and reducing the Claimant's food assistance effective October 1, 2014, by removing her from her food assistance group.
3. The Claimant was found in noncompliance with the Path Program requirements due to failure to attend the Path Program on August 25-27, 2014.

4. A notice of noncompliance was sent to the Claimant on August 28, 2014 scheduling a triage on September 4, 2014.
5. A triage was held on September 4, 2014 which was attended by the Claimant. At the triage, the Claimant was found to have no good cause.
6. The Claimant requested a hearing on November 5, 2014 protesting the Department's closure of her cash assistance case and indicating she had good cause.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the Claimant's cash assistance was closed by the Department after it imposed a final lifetime sanction claiming that the Claimant had been found in noncompliance on three occasions. Exhibit 4. A noncooperation summary presented by the Department at the hearing indicated that in April 2012, it imposed a first sanction for failure to complete an FSSP. Exhibit 5. In addition, the Department found the Claimant without good cause after a triage was held on September 4, 2014. At the hearing, the Department representative could not confirm that the Department followed the required policy for Final Review of lifetime sanction prior to certifying a case closure for a lifetime sanction as required by BEM 233 A.

Department policy found in BEM233A does not allow for the Department to impose a sanction for failure to complete a FAST or FSSP. Failure to complete either of these requirements results in closure due to failure to provide requested verification. Clients can reapply at any time. Thus, the Department's imposition of a first sanction for failure to complete a FSSP is contrary to the Department policy. BEM 233A (11/1/12) pp. 2.

This being the case, the imposition of a Lifetime Closure for failure to meet employment or self-sufficiency related requirements, was not in accordance with policy as the first sanction was inappropriate and thus at the time of the triage, an imposition of a sanction the Claimant only had one sanction, not two.

In addition, policy found in BEM 233A mandates a specific procedure which must be followed by the Department when imposing a lifetime sanction. Department policy requires that several steps be completed prior to certifying a case closure for lifetime sanction. These include determining review of the case and noncooperation history to determine if lifetime sanction is appropriate, review of FAST and FSST to determine if any identified barriers were not addressed, review of one-stop management information system case notes and activities that correspond to the Bridges sanction history, case notes in the file and on Bridges, and triage results to ensure they are consistent with corresponding client statements or possible documentation of good cause. The penalty counter and all noncooperation records in Bridges must also be reviewed for accuracy to confirm that lifetime sanction is at the appropriate count. At the hearing, it appeared that the Department could not confirm that these reviews and mandated steps were completed. BEM 233A, (10/1/14) pp.11-12.

Lastly, the Claimant credibly testified that she was assigned to apply for work at [REDACTED] and did so as required by the Path program on August 25, 2014. Claimant further credibly testified that at the triage she presented a discharge note that her daughter was seen in the emergency room due to a swollen jaw area, due to a sinus infection. Moreover, the Claimant was required to stay home with her daughter who could not attend school on August 27, 2014 due to illness. The Department offered no witnesses or testimony to rebut any of the Claimant's testimony regarding the factual circumstances for her non-attendance at the Path Program on these dates. The Claimant's hearing request clearly advised that she wanted a hearing regarding her FIP case closure and the Department's finding of non-compliance with the Path Program without good cause. Thus, the Department had notice to provide the proper witnesses and evidence for this hearing as regards the issue of good cause. Department policy allows for a finding of good cause due to an unanticipated event or occurrence such as a minor child's illness necessitating doctor, hospital visit, and/or absence from school. BEM 233 A, (10/1/14)
Pp. 4-6.

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. Good cause includes the following:

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

**Unplanned Event or
Factor**

Credible 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, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

A review of the policy indicates that the Claimant's situation fits the good cause requirements of either sick child or unplanned event, and thus it is determined that the Claimant had good cause for her failure to attend the PATH Program during the period August 25-27, 2014.

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 imposed a lifetime sanction without review of the file, and imposed a sanction for FSSP non-completion in April 2012, and lastly found the Claimant had no good cause for non-attendance at the PATH Program under these circumstances.

DECISION AND ORDER

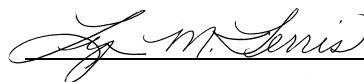
Accordingly, the Department's decision is

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 reinstate the Claimant's FIP case and restore the Claimant to her FAP group, effective 10/1/14.
2. The Department shall remove the lifetime sanction and the FSSP sanction from the Claimant's penalty counter and all non-cooperation records in Bridges.

3. The Department shall issue a supplement to the Claimant for both FIP and FAP benefits she was otherwise entitled to receive, if any, in accordance with Department policy.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

Date Mailed: **12/9/2014**

LMF/tm

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:

A large black rectangular redaction box covers the names and contact information of the individuals listed in the 'cc:' field.