

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017378
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 13, 2015
County: Genesee-District 6

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 January 13, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED]

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) benefits?

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. As a condition of receiving FIP, Claimant was required to participate in training during the Application Eligibility Period (AEP).
3. Claimant missed the last day of the AEP on November 17, 2014.
4. On November 20, 2014, Claimant requested a hearing.
5. On November 21, 2014, the Department denied his FIP because he did not complete the AEP.

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 applicable policy is found in BEM 229 (7/1/13). The AEP policy is explained at page 1:

DEPARTMENT POLICY

PATH Application Eligibility Period

Completion of the 21 day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. PATH participants must complete all of the following in order for their FIP application to be approved:

- Begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice.
- Complete PATH AEP requirements.
- Continue to participate in PATH after completion of the 21 day AEP.

Deny the FIP application if an applicant does not complete all of the above three components of the AEP.

The Department also explains the underlying policy when it comes to clients receiving FIP. See BEM 233A (10/1/14) at page 1:

DEPARTMENT PHILOSOPHY

FIP

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.

The Department recognizes that circumstances can arise which prevent clients from maintaining 100% compliance with the FIP requirements. "Good Cause" is explained at page 4 of BEM 233A:

GOOD CAUSE FOR NONCOMPLIANCE

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.

Claimant testified that he missed the last day of the AEP because his baby sitter did not show up. He also testified that he called his case worker twice that day to explain why he was missing. Initially it seemed like a plausible reason that could establish good cause for missing. However, as he was questioned, his story kept changing. His first explanation was that his sitter could not make it because of snow. When he was asked why his sitter missed because of snow in Flint on November 17, he then said it was because of cold weather. He was asked if a check of online reports for the weather in Flint on November 17 would show that it was unusually cold that day. He said it would not, and he then said he did not know why the sitter could not make it.

He was scheduled to be at the AEP at 9:00 a.m. that day. He testified that he would ride the bus. He would get on the bus around 8:00, and it would take about an hour to get to the location. When asked when he called his case worker about missing his appointment, he testified that he called around 10:00 and then again around 1:00. He had not even called his sitter until around 9:00 to find out if she would be watching his daughter. Later, he said he called her around 8:30 to see if she would be helping him that day.

Because of his evolving testimony, Claimant is not considered to be a credible witness. He did not present credible evidence to establish that he had good cause for missing his last day of the AEP. The undisputed evidence is that he missed that day, and therefore he did not complete the AEP.

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 denied Claimant's FIP.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/14/2015**

Date Mailed: **1/14/2015**

DJ/las

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:

