

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018383
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 22, 2015
County: Oakland (3) Southfield

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, [REDACTED], mother, and [REDACTED], father. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

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 recipient of FIP benefits and a mandatory PATH participant.
2. On October 30, 2014, the MRT denied a PATH deferral finding Claimant was not disabled-work ready with limitations.
3. On November 18, 2014, a PATH Appointment Notice was issued giving notice of an appointment on November 26, 2014.
4. On December 8, 2014, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on no initial contact with Michigan Works Agency (MWA).

5. On December 8, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective January 1, 2015, due to an alleged violation of the PATH program requirements.
6. On December 11, 2014, the Claimant filed a request for hearing contesting the Department's action.

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.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each Work Eligible Individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A.

WEIs meeting one of the several criteria, including disability, are only temporarily not referred to an employment service provider. A short-term incapacity allows for a deferral for up to three months for persons with a verified mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation. A long term incapacity may be identified at intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. Determination of a long-term disability is a three step process. Included this process, the client must provide verification/required documentation, a medical packet is submitted to the Medical Review Team (MRT) for a determination, and a deferral is allowed pending the establishment of incapacity. The local office must then follow the MRT determination. For example, recipients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230A.

A WEI and non-WEIs¹, who fails to participate in employment or self-sufficiency-related activities without good cause, 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. 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. BEM 233A.

Noncompliance of applicants, recipients, or member adds includes, without good cause, failing or refusing to: appear and participate with PATH or other employment service provider; appear for a scheduled appointment or meeting related to assigned activities. BEM 233A.

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. The policy lists several circumstances for good cause, including client unfit. The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233 A.

In reviewing the applicable policy, it does not appear that there is any jurisdiction for this ALJ to review the MRT determination itself. Rather, this analysis will focus on the case action based on the alleged non-compliance determination.

On October 30, 2014, the MRT denied a PATH deferral finding Claimant was not disabled-work ready with limitations. Accordingly, the Claimant became a mandatory PATH participant due to the MRT determination.

On November 18, 2014, a PATH Appointment Notice was issued giving notice of an appointment on November 26, 2014. It was uncontested that Claimant did not attend

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

this appointment or otherwise begin PATH participation by the December 8, 2014, date of the Notice of Noncompliance and Notice of Case Action.

However, Claimant explained that her heart function decreased just after the records were gathered for submission to the MRT. Claimant has presented additional medical evidence documenting a worsening in her condition that would have precluded attending the appointment. A hospital discharge summary from [REDACTED], indicates Claimant had been known to have a cardiac ejection fraction of 30-35%. A [REDACTED], Cardiac Catheterization report documents, in part, mixed ischemic and non-ischemic cardiomyopathy with an ejection fraction of 20% and a plan including aggressive risk and lifestyle modifications. A [REDACTED], letter from the cardiologist, in part, documents that Claimant has been advised to avoid all activities, remain at a low level of stress and anxiety, and that her quality of life depends on her ability to rest and maintain a no activity life style. The cardiologist also completed a DHS-54A Medical Needs form on [REDACTED], certifying a medical need for assistance with ADL's, including bathing, transferring, and mobility.

Claimant has provided sufficient evidence of good cause for the non-compliance of not participating with PATH for the December 2014 case action. Given the evidence indicating a significant change in her health, this case should be re-submitted to the MRT for a new PATH deferral determination. Accordingly, the closure and sanction of the Claimant's FIP case based on the noncompliance with the PATH program requirements cannot be upheld.

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 closed and sanctioned the Claimant's FIP case based on noncompliance with the PATH program requirements.

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. Re-instate the FIP case retroactive to the January 1, 2015, effective date, if not done previously, and remove the sanction.
2. Re-determine FIP eligibility, to include allowing a deferral pending re-submission of current medical records to the MRT for a new determination, in accordance with Department policy.

3. Issue Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/30/2015**

Date Mailed: **1/30/2015**

CL/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:

