

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018555
Issue No.: PATH
Case No.: [REDACTED]
Hearing Date: January 27, 2015
County: SAGINAW

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 27, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED] husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator, [REDACTED], Triage Specialist, [REDACTED] PATH Supervisor, and [REDACTED], Family Independence Specialist.

ISSUES

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?

Did the Department properly decrease the Claimant's FAP group's monthly allotment due to the FIP sanction?

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 and FAP benefits.
2. Claimant and her husband were mandatory PATH participants.
3. Through a mileage audit, PATH discovered that school attendance logs for Claimant and her husband were not accurate.
4. On October 30, 2014, the Department mailed Claimant and her husband Notices of Noncompliance (DHS-2444) based on no participation in required activity.

5. On October 30, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 6 months effective December 1, 2014, due to an alleged violation of the PATH program requirements and that the FAP monthly allotment would decrease to \$ [REDACTED] for the remaining group members because the Claimant and her husband were no longer eligible due to the FIP non-compliance.
6. On November 12, 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).

FIP

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 (10-1-2014) p. 1.

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 (10-1-2014) p. 1.

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; provide legitimate documentation of work participation; participate in

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

employment and/or self-sufficiency-related activities; and participate in required activity. BEM 233A, p. 2.

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. BEM 233A, p. 4.

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 233A, p. 9.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements due to being terminated from PATH based on falsification of school attendance logs. On October 30, 2014, the Department mailed Claimant and her husband Notices of Noncompliance (DHS-2444) based on no participation in required activity. A triage meeting was held with Claimant and the Department did not find good cause for the non-compliance.

The Department explained that due to an audit of requests for mileage, verification of attendance was obtained from the school for Claimant and her husband. The verifications from the school documented that the school attendance logs Claimant and her husband submitted were not accurate. While this had been occurring for some time, the current case action was based on falsified logs for October 2, 17, and 21, 2014.

Claimant and her husband explained that they were not trying to falsify their hours and noted that they made up any missed class with the school. Documentation was submitted from instructors verifying work was made up from missed classes for several days, including October 17 and 21, 2014. Claimant's husband explained that they were also told they could go to tutoring, which is what the on October 2, 2014, hours were from.

Claimant and her husband asserted that if there was a mistakes or a problem with how they were completing the attendance logs, they should have been notified sooner so this could have been resolved. Claimant and her husband are trying to better themselves and become self-sufficient, but really need the FIP and FAP assistance to survive while they finish school.

The PATH Supervisor acknowledged that this should have been caught sooner, but noted she just became involved.

The Department's testimony indicated that their position centers on the accuracy of the school attendance logs submitted by Claimant and her husband, rather than a failure to complete required participation hours. However, the BAM 233A policy, as cited above, specifies that a failure to provide legitimate documentation of work participation is considered non-compliance. While it appears this was an oversight when the policy was drafted and/or revised, there is no similar provision in the policy addressing legitimate documentation of other types of participation, such as school activities. Further, the Notices of Noncompliance (DHS-2444) state the alleged noncompliance is "no participation in required activity." Claimant and her husband have provided documentation that they made up missed class hours.

Claimant has provided sufficient evidence of good cause for the non-compliance of not participating in required activities. While submitting accurate school attendance logs is important, the specific alleged non-compliance was not participating in required activities. The submitted documentation supports that Claimant and her husband have been making up any missed class hours. Accordingly, the closure and sanction of the Claimant's FIP case based on their noncompliance with the PATH program requirements cannot be upheld.

FAP

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, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the two situations, one of which is when client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233 B (7-1-2013) p. 1.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. BEM 233 B, p. 2.

In this case, good cause has been established for the alleged non-compliance. Accordingly, the determination to disqualify Claimant and her husband from the FAP group, resulting in the decrease in the FAP group's monthly allotment, 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 and when it reduced Claimant's FAP group's monthly allotment based on the FIP 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. Re-instate the FIP case retroactive to the December 1, 2014, effective date, if not done previously, and remove the sanction(s) for Claimant and her husband.
2. Re-determine FIP and FAP eligibility retroactive to the December 1, 2014, effective date, 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: **2/4/2015**

Date Mailed: **2/4/2015**

CL/hj

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:

