

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-018725
Issue No.: 1008
Case No.: ██████████
Hearing Date: January 29, 2015
County: WAYNE-76

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████ ██████ Family Independence Specialist, and ██████████ Family Independence Manager.

ISSUE

Did the Department properly close and sanction Claimant's FIP case for failing to attend work-related activities?

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 FIP recipient in Wayne County.
2. Claimant was a mandatory PATH participant.
3. Claimant allegedly did not meet participation requirements.
4. Claimant did not attend PATH orientation, choosing instead to attend class.
5. Claimant was referred to triage for failing to attend the PATH program.
6. On November 26, 2014 Claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage to be held on December 2, 2014; it

should be noted that the mailing date was the day before the Thanksgiving holiday weekend, and the triage was scheduled for that Tuesday, less than one week later.

7. Claimant did not receive the notice of noncompliance and triage.
8. Claimant did not attend the triage.
9. The triage was held on December 2, 2014.
10. Claimant's FIP case was closed and a lifetime sanction was applied.
11. No final lifetime sanction review was conducted post-triage.
12. On December 22, 2014, Claimant requested a hearing.

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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Partnership, Accountability, Training, and Hope (PATH) program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. Clients who have not been granted a deferral must participate in employment and/or self-sufficiency related activities to increase their employability and to find employment. BEM 230A, p. 1 (2014). A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called "noncompliance". BEM 233A defines noncompliance as failing or refusing to, without good cause:

"...Appear and participate with the PATH Program or other employment service provider..." BEM 233A pg. 1 (2014).

However, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance at application is group ineligibility. BEM 233A.

Prior to certifying a case closure for a lifetime sanction, the case and noncooperation history must be reviewed to determine if the lifetime sanction is an appropriate closure. BEM 233A, pg 13.

The Department testified that no lifetime sanction final review had been conducted. As such, the Department’s sanction and case closure is in error, as proper policy has not been followed.

However, this point is moot, because after reviewing the facts of the case, the undersigned cannot reach the conclusion that Claimant was noncompliant.

Noncompliance requires a finding that Claimant failed or refused to attend work-related activities. The Department has failed to submit evidence that Claimant ever failed to attend work related activities; as such, the undersigned cannot reach that finding.

The only evidence submitted that shows Claimant was non-participatory with work related activities is the DHS-2444, Notice of Noncompliance. However, this document only relates what the Department is alleging; it in no way proves that Claimant was actually non-participatory. In other words, this document cannot be used to prove itself. In order to show non-participation with work related activities, the Department must submit supplemental evidence that proves Claimant was actually non-participatory. The Department has failed to meet its burden in the present case.

For these reasons, the Administrative Law Judge holds that the Department has failed to meet their burden in showing that the Claimant was noncompliant.

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 Claimant’s FIP benefits and imposed a lifetime sanction on Claimant’s benefit case.

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 all sanctions imposed on Claimant's benefit case in relation to the case in question.
2. Restore Claimant's FIP benefits retroactive to the date of negative action.



Robert Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/9/2015**

Date Mailed: **2/9/2015**

RJC/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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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