

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-11878
Issue No.: 1008
Case No.: ██████████
Hearing Date: December 9, 2013
County: Pathways to Potential (82-23)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
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ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for noncompliance with employment-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 ongoing recipient of FIP benefits.
2. In connection with her FIP eligibility, Claimant was required to participate in the PATH program.
3. On September 30, 2013, the Department sent Claimant a PATH Appointment Notice, referring her to a PATH orientation on October 7, 2013.
4. Claimant did not attend the October 7, 2013, PATH orientation.

5. On October 11, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying her of her noncompliance and scheduling a triage on October 17, 2013, and (ii) a Notice of Case Action notifying her that her FIP case would close effective November 1, 2013, because she had failed, without good cause, to comply with employment-related activities.
6. On October 14, 2013, the Department sent Claimant a Verification Checklist (VCL) notifying her that the triage was rescheduled to October 23, 2013.
7. Claimant did not attend the October 23, 2013, triage.
8. The Department held the triage and concluded that Claimant had no good cause for her failure to attend the PATH orientation.
9. The Department sanctioned Claimant's FIP case for closure for three months.
10. On November 14, 2013, Claimant filed a request for hearing disputing the Department's actions.

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.

Additionally, as a condition of continued FIP eligibility, work-eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client's failure to attend or participate with PATH or other employment service provider or to provide legitimate documentation of work participation constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A, pp. 2-3.

Claimant acknowledges that she did not attend the October 7, 2013, PATH orientation. Therefore, Claimant failed to comply with employment-related activities. However, before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9.

In this case, on October 11, 2013, the Department sent Claimant both a Notice of Noncompliance and Notice of Case Action. On October 14, 2013, the Department sent Claimant a VCL informing her that the triage was rescheduled to October 23, 2013. Claimant did not attend the triage.

Claimant credibly testified at the hearing that she did not receive the October 14, 2013, VCL rescheduling her triage until October 23, 2013, the date of the triage. Claimant acknowledged receiving the initial Notice of Noncompliance scheduling a triage on October 17, 2013, but was notified that her triage would be rescheduled. She attempted to obtain information concerning the rescheduled date but could not get any information from the Department prior to October 23, 2013. Under these circumstances, Claimant established good cause for her failure to attend the triage. As such, her good cause explanation was considered at the hearing.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities based on factors beyond the control of the noncompliant person. BEM 233A, p. 4. Good cause includes circumstances where credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 6.

In this case, Claimant alleged that she was unable to attend the October 7, 2013, PATH program because the babysitter she had arranged to come to her home to watch her children called her that morning to inform her that she had a health issue and could not come over. Claimant further testified that she called her worker that same day to let her know of these circumstances; the worker at the time did not participate in the hearing to rebut Claimant's testimony. Claimant has four children, three under the age of five. Under these circumstances, where Claimant's scheduled babysitter backed out with little notice and Claimant could not leave her children unattended, Claimant established an unplanned factor which significantly interfered with her ability to participate in employment-related activities. As such, the Department did not act in accordance with Department policy when it closed Claimant's case because she lacked good cause for her noncompliance.

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 closed Claimant's FIP 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. Reinstate Claimant's FIP case effective November 1, 2013;
2. Remove any employment-related sanctions entered on or about November 1, 2013, from Claimant's record; and
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from November 1, 2013, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 17, 2013

Date Mailed: December 17, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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:

2014-11878/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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