

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12784
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: February 10, 2014
County: Oakland (3)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], JET Case Manager.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-related activities without good cause?

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. Claimant was deferred from the FIP program and on an unspecified date, her deferral had ended.
3. On October 1, 2013, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice informing her to attend her scheduled orientation on October 10, 2013. See Exhibit 1.
4. Claimant failed to attend her scheduled orientation.

5. On October 28, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on November 5, 2013. Exhibit 1.
6. On October 28 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective December 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.
7. Claimant failed to attend the triage appointment on November 5, 2013 and the Department determined no good cause for her non-compliance. See Exhibit 1.
8. On November 12, 2013, Claimant filed a hearing request, protesting her FIP case closure. See Exhibit 1.
9. On December 20, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on January 9, 2014.
10. On January 13, 2014, the Administrative Law Judge sent Claimant an Order Granting Adjournment.
11. On January 30, 2014, MAHS sent Claimant a Notice of Hearing, which scheduled her for a hearing on February 10, 2014.

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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (July 2013), p. 9. Good cause is determined during triage. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 3-5.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229 (July 2013), p. 6.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was deferred from the FIP program (pregnancy) and on an unspecified date, her deferral had ended. On October 1, 2013, the Department sent Claimant a PATH Appointment Notice informing her to attend her scheduled orientation on October 10, 2013. See Exhibit 1. Claimant failed to attend her scheduled orientation.

At the hearing, Claimant testified that she missed the PATH Appointment Notice due to receiving several DHS correspondence letters. Claimant testified that she received four or five different DHS correspondences by mail at the time of the PATH notice and she inferred that she mistakenly overlooked the PATH Appointment Notice. The Department testified that it did not receive any phone calls before her PATH appointment regarding transportation or daycare issues. Ultimately, the Department testified that it contacted the Claimant on October 28, 2013, regarding a FIP redetermination. During the interview, the Department testified that it notified the Claimant about her PATH orientation. Claimant testified that she told her DHS caseworker that she did not receive the PATH notice. Moreover, Claimant testified that she went back to her mail and discovered the PATH notice was sent to her. Claimant testified that she notified the DHS caseworker about her daycare and transportation issues on October 28, 2013. The Department testified that it notified the Claimant that she would have to address those issues that at the triage appointment.

Subsequently, on October 28, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on November 5, 2013. Exhibit 1. Also, on October 28 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective December 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.

At the triage, the Department presented a triage determination form, which stated that Claimant failed to attend the triage appointment on November 5, 2013 and the Department determined no good cause for her non-compliance. See Exhibit 1. Moreover, the Department presented case comments notes which indicated that Claimant called for a phone interview the day of the triage appointment on November 6, 2013. See Exhibit 1. The notes indicated the PATH coordinator returned the call on November 7, 2013 to conduct the meeting. See Exhibit 1. The notes also stated that Claimant acknowledged receiving the correspondence but did not read it. See Exhibit

1. The Department upheld the noncompliance. See Exhibit 1. It should be noted that the notes do present issues with dates. For example, it states that Claimant contacted the Department on the day of the triage (November 6, 2013), however, the actual triage date is November 5, 2013. See Exhibit 1. Nevertheless, Claimant spoke with the Department and it upheld the noncompliance.

Claimant testified that she was unable to obtain transportation and/or child care issues and could not attend the triage in-person. Thus, Claimant testified she contacted the Department the day before the triage, but she acknowledged it was late in the day. Claimant testified she thought the Department would call her back the next day in order for her to explain the transportation/daycare issues for the triage. Moreover, Claimant testified that she contacted the Department the morning of the triage, during the appointment of the triage, and in the afternoon. Claimant testified that she finally spoke to the Department the day after the triage and explained she would not be able to attend due to child care issues and transportation issue. Claimant inferred that the Department was aware of her daycare and transportation barriers (See Request for Hearing, Exhibit 1) and therefore, good cause is present.

It should be noted that Claimant testified that she previously applied for the Child Development and Care (CDC) program, however, she was denied due to previously missing a PATH appointment. This application does indicate that the Department was aware of her CDC issues. However, Claimant did not apply for CDC benefits for the current orientation at issue. Claimant testified that she did not apply because of not receiving the PATH notice.

Nevertheless, based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective December 1, 2013, ongoing. First, it is found that Claimant is in noncompliance based on her failure to attend the scheduled PATH appointment. Claimant acknowledged receiving her PATH notice; however, her testimony indicated that she mistakenly and/or overlooked the correspondence due to receiving other DHS correspondence at the same time. Nevertheless, the Department properly sent the Claimant the PATH Appointment Notice in accordance with Department policy and she failed to attend her scheduled appointment. Thus, the Department properly found her in noncompliance.

Second, it is found that Claimant did not present good cause reasons for her noncompliance. Claimant did contact the Department three to four times the night before and the day of her triage. However, the Department determined she did not attend the triage appointment on November 5, 2013 and the Department determined no good cause for her non-compliance. See Exhibit 1. Nonetheless, both parties agreed that it did speak after the triage concerning her noncompliance. Claimant testified that she informed the Department of her good cause reasons (no child care and no transportation), however, the Department still found her in noncompliance.

Additionally, the Department presented credible evidence and testimony that it properly determined no good cause for the Claimant's noncompliance. Even though no child

care and no transportation are good cause reasons, Claimant failed to contact the Department before her scheduled appointment to state these good cause reasons. Claimant presented testimony for CDC issues on a previous reason; however, in regards to the current orientation scheduled, she failed to notify the Department of her barriers.

Ultimately, Claimant failed to review her DHS correspondence and did not attend her scheduled PATH appointment. It was the Department who notified her of the PATH appointment on October 28, 2013, which is more than two weeks after her scheduled appointment. At this point, Claimant stated the good cause reasons for not attending the PATH appointment, but this was subsequent to her failure to attend. Moreover, Claimant never applied for CDC benefits for the current orientation in order to notify the Department of such barriers. Because this was Claimant's first noncompliance, the Department acted in accordance with Department policy when it closed Claimant's case for a three-month minimum. BEM 233A, p. 1.

DECISION AND ORDER

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 properly closed Claimant's FIP benefits for a three-month minimum effective December 1, 2013, ongoing.

Accordingly, the Department's FIP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 12, 2014

Date Mailed: February 12, 2014

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:

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

EJF/tlf

cc:

