

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13860
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Macomb County DHS #20

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 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant, and [REDACTED] daughter. Participants on behalf of the Department of Human Services (Department) included [REDACTED] JET Specialist Case Manager.

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. The Claimant was an ongoing FIP recipient.
2. The Claimant was a mandatory PATH participant.
3. On November 13, 2013, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on disruptive/abusive behavior.
4. On November 13, 2013, a Notice of Case Action was issued to the Claimant stating the FIP case would close for at least 3 months effective December 1, 2013 due to an alleged violation of the PATH program requirements.

5. On November 18, 2013, 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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Additionally, 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 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

A Work Eligible Individual (WEI) and non-WEI¹, 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 both: (1) failing or refusing to provide legitimate documentation of work participation; (2) Participate in employment and/or self-sufficiency-related activities and (3) threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity. 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

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

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.

The Department asserts that on November 12, 2013, the Claimant was disruptive and confrontational, specifically yelling and getting out of control while at Michigan Works Agency (MWA). (Exhibits 1, pages 3-4) The Claimant had been warned that confrontation behavior was unacceptable on October 14, 2013. (Exhibit 1, page 7) A triage meeting was held with the Claimant on November 21, 2013. The Claimant asserted her behavior was based on anxiety and panic attack. However, based on the information in the Department file, the medication the Claimant stated she was taking was prescribed due to her back problem, not anxiety or panic attacks. (Exhibit 1, pages 2-3) The Department also noted prior warning and ongoing noncompliance related to completing job search requirements and logs. However, the only basis for noncompliance listed on the November 13, 2013 notice of non-compliance was disruptive/abuse behavior.

The Claimant testified that there were issues with caseworkers explaining the requirements for the job logs differently. The Claimant asserted the first two write-ups were not her fault. The Claimant stated she was not given the option to not sign the first write up and never received a copy of the second. Regarding the November 12, 2013 incident, the Claimant stated the caseworker was yelling at her and would cut her off when she tried to ask questions. The Claimant testified that she was visibly upset, crying, gripping her chest, could not catch her breath and was panicking. The Claimant stated she was previously in counseling but the counseling place closed. The Claimant noted that she has a new appointment for counseling coming up.

The Claimant's daughter testified she was not in the room with the Claimant for the November 12, 2013 incident. The Claimant's daughter only provided testimony regarding the looks on the faces of those around when the Claimant left the room, and what she felt about how the Claimant was treated.

The Department had submitted sufficient evidence, specifically the MWA case notes, of the Claimant's disruptive behavior on November 12, 2013. (Exhibit 1, pages 3-4) The Claimant has asserted that she suffers from anxiety/panic attacks, but has not provided any verification of this condition. The Claimant has not provided sufficient evidence to establish good cause for disruptive behavior on November 12, 2013.

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

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

/s/

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 13, 2014

Date Mailed: January 14, 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

CL/hj

201413860/CL

cc:

