

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

IN THE MATTER OF:

██████████
██████████████████
██████████

Reg. No.: 2014-15670
Issue No(s): 1008;2000
Case No.: ██████████
Hearing Date: January 8, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her mother/Legal Guardian, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Path Worker.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case based on a failure to participate in employment related activities without good cause and process her MA benefits?

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 MA and FIP benefits.
2. Claimant was previously deferred from participating in the PATH program.
3. On October 19, 2013, the Medical Review Team (MRT) determined that Claimant was not disabled and that she was work ready for participation in PATH. (Exhibit 1)
4. On November 1, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend the PATH program on November 12, 2013. (Exhibit 2)

5. On November 20, 2013, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on December 2, 2013, to discuss whether good cause existed for the noncompliance. (Exhibit 3)
6. On November 20, 2013, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2014, her FIP case would be closing and a three month sanction imposed, based on a failure to participate in employment related activities without good cause. (Exhibit 4)
7. On December 2, 2013, Claimant submitted a hearing request 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).

MA

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The hearing was requested to dispute the Department's action taken with respect to Claimant's Medical Assistance (MA) benefits. Shortly after commencement of the hearing, Claimant testified that she understands and is satisfied with the actions taken by the Department and that she no longer had any issues to address with respect to her MA case. Claimant further confirmed that she did not wish to proceed with the hearing concerning her MA case, as she had active and ongoing MA benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding the MA case is hereby **DISMISSED**.

FIP

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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities. BEM 233A (July 2013), p. 1. The

WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. BEM 233A, pp. 4-6.

Good cause includes any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the client was determined to be noncompliant; and the penalty duration. BEM 233A, p.9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (July 2013), p. 10. Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the MRT determined that Claimant, who was previously deferred for three years from participating in PATH due to a medical condition, was no longer disabled and was now work ready without limitations. The Department testified that because Claimant did not attend her PATH Appointment on November 12, 2013, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on December 2, 2013, to discuss whether or not she had good cause for her failure to attend PATH.

A triage was conducted on December 2, 2013, at which Claimant's Legal Guardian appeared. At the triage, the Department concluded that although Claimant and her Legal Guardian did attend PATH on November 12, 2013, because Claimant did not stay and participate for the entire period, and MRT found Claimant to be work ready, Claimant did not have good cause for her noncompliance. The Department initiated the closure of Claimant's case and imposed a three month sanction, effective January 1, 2014.

At the hearing, Claimant's Legal Guardian credibly testified that she attended PATH with Claimant on November 12, 2013, and that she was told she could not stay with Claimant. The Legal Guardian explained that she was required to stay with Claimant at all times because Claimant is under her full guardianship, as determined by the Circuit Court and Claimant cannot be left alone without the guardian's supervision. Therefore, the Department has failed to establish that Claimant was noncompliant with employment activities, as she did not fail to appear for a meeting or scheduled appointment relating to assigned activities. She attended her PATH appointment but was turned away due to the legal guardianship and she attended the triage meeting to explain the situation.

Additionally, according to BEM 233A, if a client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information, good cause is established. BEM 233A, p. 5. At the hearing, Letters of Guardianship from the Circuit Court were presented to establish that Claimant is a legally incompetent person and that her mother has been appointed her full legal guardian. (Exhibit A). The BPG Glossary defines a legally incompetent person as someone over the age of 18 for whom a legal guardian has been appointed by a court. BPG (January 2014), p.37. An incompetent person has been determined by a probate court as unable or unfit to manage his own affairs. BPG, p.33. In this case, the Letters of Guardianship presented should have been considered reliable information and sufficient to establish good cause that Claimant is physically or mentally unfit for the job.

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 after further review of the evidence presented, the Department did not act in accordance with Department policy when it determined that Claimant did not have good cause for her failure to participate in employment related activities, closed Claimant's FIP case and imposed a three month sanction.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA is DISMISSED and the Department's FIP 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 the sanction that was imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective January 1, 2014;
3. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from January 1, 2014, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 13, 2014

Date Mailed: January 13, 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

2014-15670/ZB

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

ZB/tm

CC:

[REDACTED]
[REDACTED]
[REDACTED]
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