

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

IN THE MATTER OF:



Reg. No.: 2014-23323
Issue No(s): 1008, 6001
Case No.: [REDACTED]
Hearing Date: February 13, 2014
County: Lenawee County DHS

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 February 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] JET Worker.

ISSUES

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?

Did the Department properly close the Claimant's Child Development and Care (CDC) case?

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 a recipient of FIP benefits and a mandatory PATH participant.
2. The Claimant was a recipient of CDC benefits.
3. On December 30, 2013, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on no participation in required activity.
4. On December 30, 2013, a Notice of Case Action was issued to the Claimant stating the FIP case would close for at least 3 months effective February 1, 2014 due to an alleged violation of the PATH program requirements.

5. On January 9, 2014, a Notice of Case Action was issued to the Claimant stating the CDC case closed for the period of December 1, 2013 through December 28, 2013 because circumstances or child care needs have changed.
6. On January 16, 2014, the Claimant filed a request for hearing contesting the Department's closure of FIP and CDC benefits.

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).

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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 (WEI) 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 WEI and non-WEIs¹, 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, failing or refusing to: appear and participate with PATH or other employment service provider; appear for a scheduled appointment or meeting related to assigned activities;

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

participate in employment and/or self-sufficiency-related activities; and participate in required activity. BEM 233A.

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. A claim of good cause must be verified and documented for member adds and recipients. The policy lists several circumstances for good cause, including the client having a debilitating illness or injury. 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 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.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements due to not participating in a required activity. On December 5, 2013, the Claimant was mailed a letter informing her that she was to report to Goodwill on December 16, 2013 at 9:30 am to start a work evaluation assignment of 20 hours per week. (Exhibit A, page 7) The Claimant did not report to Goodwill on December 16, 2013 because of a hospitalization. On December 23, 2013, the Claimant provided documentation to PATH of her hospitalization from December 9, 2013 through December 16, 2013. (Exhibit A, page 6) Accordingly, the Claimant has established good cause for not reporting to the Goodwill assignment on December 16, 2013.

The Department asserts the Claimant was still non-compliant because she did not attend the December 27, 2013 Re-Engagement Appointment and because job search logs for the weeks of December 15, 2013 and December 23, 2013 were not provided. The Claimant testified that she has had trouble with receiving correspondence timely or even receiving correspondence at all. The Claimant stated she thought she may not have received the notice of the December 27, 2013 appointment. However, the Department documented an email received from the Claimant on December 23, 2013 that ended with the Claimant stating she would discuss things with the Department at the December 27, 2013 appointment. (Exhibit A, pages 6-7) While the email establishes that the Claimant was aware of the December 27, 2013 appointment, it also establishes that the Claimant was reporting health conditions to the Department that affect her ability to attend school and work related activities. (Exhibit A, pages 6-7) The Claimant explained that after she was discharged from the hospital on December 16, 2013, she was trying to get an appointment with her doctors to provide the Department with documentation of her impairments. However, the holidays made it difficult to get into her doctor's offices quickly, then the appointments that were made had to be rescheduled due to the heavy snow falls. The Claimant has submitted documentation from her physical and mental health providers excusing her from work/school. (Exhibit B, pages 1-4) Included was a January 24, 2014 note from Dr. Chandramouli stating that the Claimant has been doing poorly since December 9, 2013 and continues to be

struggling with impairing symptoms and recommends the Claimant stay of work/school for at least the next month. (Exhibit B, page 1) Accordingly, the Claimant has provided sufficient evidence of good cause for not participating in required activities since December 9, 2013.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858t to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of: 1) family preservation; 2) high school completion; 3) an approved activity; 4) Employment. BEM 703. The Department determines the valid need hours for each parent/substitute parent (P/SP) at application, redetermination, and when a change in work or activity hours is reported. BEM 710.

On January 9, 2014, a Notice of Case Action was issued to the Claimant stating the CDC case closed for the period of December 1, 2013 through December 28, 2013 because circumstances or child care needs have changed. The Department indicated that the Claimant's CDC need was based on school attendance and PATH participation. While it is understandable that there would be a need to re-determine need hours when the school attendance and PATH participation stopped, it is not clear why the CDC case closed effective December 1, 2013. Before the January 9, 2014 Notice of Case Action was issued, the Claimant had submitted logs for the week of December 1, 2013. Specifically, the PATH notes document that on December 23, 2013, the Claimant submitted 17 hours of job search and 12 hours of VOT for the week of December 1, 2013. (Exhibit A, page 6) Accordingly, the closure of the CDC case effective December 1, 2013 cannot be upheld.

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 and sanctioned the Claimant's FIP case for noncompliance with the PATH program requirements and when it closed the Claimant's CDC case effective December 1, 2013.

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 the Claimant's FIP case retroactive to the February 1, 2014 effective date and re-determine eligibility in accordance with Department policy.
2. Remove the sanction from the Claimant's FIP case.
3. Re-instate the Claimant's CDC case retroactive to the December 1, 2013 effective date and re-determine eligibility in accordance with Department policy.
4. Issue the Claimant any supplement she may thereafter be due.



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

Date Signed: February 21, 2014

Date Mailed: February 21, 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:

201423323/CL

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

CL/hj

cc:

