

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24017
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: March 18, 2014
County: Lapeer

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 March 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED], Family Independence Specialist [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) 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 applied for FIP (cash assistance) benefits on September 17, 2013, and requested deferral from participation in the Partnership, Accountability, Training and Hope (PATH) program activities.
2. On October 14, 2013, the Department mailed to Claimant, at her address of record, a Medical Determination Verification Checklist that was to be completed and returned by October 24, 2013. (Exhibit 1-5 Page 1-2.)
3. On October 14, the Department also mailed to Claimant a Quicknote (Exhibit 1-6) with information regarding the documentation that would be needed by the Medical Review Team (MRT) in making a decision on Claimant's claimed disability.

4. On November 19, 2014, the Department mailed a Medical Appointment Confirmation Notice (Exhibit 1-7) confirming an appointment for a psychological evaluation on November 27, 2014.
5. Claimant did not want to be evaluated by the doctor selected by the Department.
6. Claimant was granted an extension to be evaluated by a doctor she selected, and she scheduled an appointment with her doctor for January 3, 2013. (Exhibit 1-9.) She was advised that "this appointment will not be allowed to be rescheduled or cancelled."
7. Claimant's chosen doctor notified her and the Department on December 20 that he could not evaluate her because her insurance would not cover the cost of the evaluation.
8. On January 8, 2014, the Department mailed a Medical Appointment Confirmation Notice, scheduling her for an evaluation with the original doctor on January 16, 2014. (Exhibit 1-10.) Claimant was also notified by telephone that the appointment was scheduled.
9. Claimant did not attend the evaluation.
10. On January 16, 2014 the Department mailed to Claimant a Notice of Case Action (Exhibit 1-11) informing her that her FIP was being closed effective February 1, 2014 for "failing to attend scheduled psychiatric appointment on 1-16-14. No show, no call to either myself or [REDACTED] office."
11. Claimant requested a hearing on January 22, 2014. (Exhibit 2.)

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.

The PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences."

“If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH.” BEM 233A p 11 (7/1/13).

Per BEM 233A, “good cause for non-compliance” is based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.”

Claimant testified that she found out on January 8, 2014 that she had been scheduled for an appointment on January 16, and that she could not attend because she had two other medical appointments scheduled that day. One was with her bone doctor, and the other with her neurologist. She also testified that she borrowed a telephone from a friend who lives in her home and called the Department to say that she could not attend the appointment. Interestingly, Claimant stated in her hearing request that she called the Department on January 8 to say the January 16 appointment “wouldn’t work. I had another appointment that day. And Jan. 30th would work.” She went on to state, “I called from my neighbor’s phone. I remember specifically and I have date & time call was made and saved [REDACTED] messages along with her supervisor’s messages from January 8th 2014.” When she was asked during the hearing why she said she used her house-mate’s phone when she said in her hearing request that she used her neighbor’s phone, she could not provide an explanation.

The Department made an appropriate effort to assist Claimant in arranging for a psychiatric evaluation. She was allowed to extend the deadline twice. Because her sworn testimony during the hearing was in conflict with facts stated in her hearing request, Claimant is found to not be a credible witness. Her testimony will be given little weight. The Department’s witnesses were more credible, and their testimony was consistent with the documentary evidence. The Claimant has not shown good cause for her non-compliance with the Department’s attempts to have her participate in a psychiatric evaluation.

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 Claimant's FIP benefits.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2014

Date Mailed: March 20, 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.

2014-24017/DTJ

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

DTJ/las

cc:

