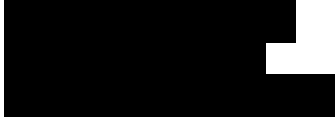


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-26572
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (17)

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 March 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], Family Independence Specialist Case Manager. Also, [REDACTED] was present as Claimant's interpreter.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency 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. On or around June 2013, Claimant's deferral ended and on December 2, 2013, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice for him to attend an appointment on December 10, 2013. Exhibit 1.
3. On December 21, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective February 1, 2014, based on a failure to

participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1.

4. On December 21, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on January 2, 2014. Exhibit 1.
5. On January 2, 2014, Claimant attended the triage appointment and the Department found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activities.
6. On February 6, 2014, Claimant requested a hearing, disputing the FIP benefit termination. Exhibit 1.

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. 4. 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. 4-6.

In this case, Claimant was an ongoing recipient of FIP benefits. On or around June 2013, the Department testified that Claimant's deferral ended for a short-term incapacity that was less than three months. The Department testified that there was no Medical

Review Team (MRT) decision due to the deferral being less than a three months. Subsequent to the deferral ending, the Department testified that it wasn't until a submitted redetermination in November 2013 that caused Claimant to be referred back to the PATH program. On December 2, 2013, the Department sent Claimant a PATH Appointment Notice for him to attend an appointment on December 10, 2013. Exhibit 1. The Department testified that Claimant failed to attend the scheduled appointment. Thus, on December 21, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective February 1, 2014, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1. Also, on December 21, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on January 2, 2014. Exhibit 1.

At the hearing, Claimant testified that he attended the PATH appointment, however, presented documentation to the PATH caseworker indicating his inability to participate in work or PATH. Specifically, Claimant testified that he presented the PATH caseworker a disability statement from his doctor. See Exhibit A. Claimant testified that the PATH caseworker said that he could leave because of the disability and that it would contact the Department regarding this information. The Department did not present any record of receiving any disability documentation and/or a call from the PATH caseworker. Moreover, Claimant did not present any documentation that he attended the PATH program on December 10, 2013.

Nevertheless, the Department found Claimant in noncompliance for his failure to attend the scheduled appointment on December 10, 2013. Claimant was then subsequently scheduled for a triage appointment to discuss the non-compliance on January 2, 2014. At first, the Department testified as if the Claimant did not attend the triage appointment. Also, the Claimant testified that he went to the local DHS office on January 2, 2014 and did not see his caseworker. Ultimately, Claimant did not see his actual DHS caseworker, but a triage was conducted with another DHS caseworker. Claimant testified that he provided the Department at the triage with three documents showing his inability to participate in work or PATH (i.e., disability paperwork). Claimant presented those documents at today's hearing as well. A review of the documents presented was a Social Security Administration (SSA) Hearing reminder dated November 29, 2013; a letter from Claimant's doctor stating he is totally disabled dated December 7, 2013; and another letter from Claimant's doctor stating he is totally disabled dated December 9, 2013. Claimant testified that he never received a response from the Department after providing this documentation.

The Department was unable to determine if this documentation was presented at the triage. The Department testified that the hearing was the first time it saw the medical documentation and there were no date-stamps on the paperwork. The only testimony the Department was able to provide was that it found no good cause for Claimant's failure to attend an employment and/or self-sufficiency related activities.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH

for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A, p. 12. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 12. Step three involves the referral to MRT. See BEM 230A, p. 13. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 13.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective February 1, 2014, ongoing.

First, it is found that Claimant attended his PATH appointment on December 10, 2013 and provided credible evidence that he is unable to participate in work or PATH for more than 90 days because of a mental or physical condition. See BEM 230A, p. 12. This evidence was supported by the fact that Claimant provided copies of the medical documentation that indicated he was disabled. See Exhibit A. Also, the documentation was dated prior to the scheduled appointment on December 10, 2013. See Exhibit A. At this point, BEM 230A policy indicates that anytime during an ongoing benefit period when an individual claims to be disabled, the client should be deferred by the Department. BEM 230A, p. 12. Claimant indicated such a disability and he should have been deferred pending the determination of a long-term disability three step process. BEM 230A, pp. 12-14.

Nonetheless, even if the Department found Claimant to be in non-compliance, it is determined that Claimant provided a good cause reason for the non-compliance. Again, Claimant provided credible evidence at the time of triage that he submitted medical documentation showing that he is disabled. See Exhibit A. This is good cause reason falls under the category that the Claimant has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. See BEM 233A, p. 5. Moreover, as stated above, the Department should have deferred the Claimant pending the determination of a long-term disability three step process.

In summary, the Department improperly closed Claimant's FIP benefits effective February 1, 2014, for the reasons stated above. The Department will remove the sanction and reinstate the FIP benefits from the closure date. The Department will also defer the Claimant from the PATH program and determine Claimant's long-term disability process in accordance with Department policy. See BEM 230A, pp. 12-14.


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 did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits effective February 1, 2014, ongoing.

Accordingly, 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. The Department shall remove Claimant's first FIP sanction from his case;
2. The Department shall reinstate Claimant's FIP case as of February 1, 2014, ongoing;
3. The Department shall defer the Claimant from the PATH program and determine Claimant's long-term disability process in accordance with Department policy;
4. The Department shall begin recalculating the FIP budget for February 1, 2014, ongoing, in accordance with Department policy;
5. The Department shall supplement for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for February 1, 2014, ongoing, in accordance with department policy; and
6. The Department shall notify Claimant of the FIP determination in accordance with Department policy.



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

Date Signed: March 14, 2014

Date Mailed: March 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

EJF/tlf

cc:

