

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-28990
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: March 20, 2014
County: Monroe

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 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] and her fiancé [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist Case Manager [REDACTED], and PATH Coordinator [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 and her fiancé applied for FIP (cash assistance) benefits on November 5, 2013.
2. Claimant received a deferment from participation in the PATH (Partnership Accountability Training Hope) appointment because she had a baby on October 3, 2013.
3. Claimant's fiancé was deferred from the PATH program after he provided the Department with a doctor's note on November 7, 2013 verifying that he had a rotator cuff strain.
4. Claimant's fiancé was deferred again on November 20, 2013 as a result of another doctor's note.
5. Effective January 1, 2014, the deferrals for Claimant and her fiancé ended.

6. On January 2, 2014, the Department mailed to Claimant and her fiancé a PATH Appointment Notice (Exhibit 1 Pages 9-10) requiring at least one of them to attend PATH orientation on January 13, 2014 at 8:30 a.m.
7. On January 7, 2014, a PATH representative called Claimant and told her that if she or her fiancé attended the orientation, the other could be scheduled for a “desk orientation” in order to alleviate issues with obtaining child care. (Exhibit 1 Page 11.)
8. On January 10, 2014, Claimant was approved for 100% of child care costs to be paid for 80 hours per bi-weekly period. (Exhibit 1 Pages 15-20.)
9. Also on January 10 the Department mailed a Verification Checklist (VCL) (Exhibit 1 Page 21-22) and a Child Development and Care Provider Verification (Exhibit 1 Pages 23-24) which were to be completed by January 21, 2014.
10. On January 21, 2014, the fiancé appeared for the PATH orientation and told the Coordinator that he would have to leave at 9:30 because the couple’s children had a doctor’s appointment. The coordinator told him that leaving early would not satisfy the orientation requirements.
11. On January 24, 2014, the Department mailed Claimant a Notice of Non-Compliance informing her that she “refused or failed to participate as required in employment and/or self-sufficiency related activities for FIP, RCA, and/or FAP” by not contacting the Michigan Works! Agency. It scheduled a triage for January 30, 2014 at 9:00 a.m. during which she was to have an opportunity to verify her reason for non-compliance. (Exhibit 1 Page 29-32.)
12. On January 29, 2014, the Department mailed another PATH Appointment Notice scheduling Claimant to appear at orientation on February 10, 2014 at 8:30. (Exhibit 1 Pages 37-38.)
13. On February 13, 2014, the Department mailed another Notice of Noncompliance, scheduling triage for February 20 at 9:00. (Exhibit 1 Pages 42-45.)
14. On February 13, 2014, the Department issued a Notice of Case Action closing Claimant’s cash assistance effective March 1, 2014 because “You or a group member failed to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment without good cause.” (Exhibit 1 Pages 46-
15. On February 18, 2014, Claimant requested a hearing. (Exhibit 1 Pages 5-6.)
16. On February 20, 2014, the Coordinator conducted the triage via telephone and found Claimant had not established good cause for her non-compliance with the PATH program.

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” are 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.”

The critical issue here is whether Claimant established good cause for non-compliance prior to the end of the negative action period. Claimant testified that she did not participate in work related activities because she had problems arranging day care.

That is not a persuasive argument. The Department testified that Claimant had been granted repeated deferrals and extensions to accommodate health and child care issues. Claimant testified that the first day care provider she had arranged had later decided not to take her child(ren). The next provider she had arranged was "too far" for them to drive, but the Department's witness testified that the second provider was probably not more than five miles from the MWA where the PATH program was conducted. In any case, the Department offered that Claimant or her fiancé could attend the orientation while the other watched the children, and then the second parent could later do a "desk orientation."

The Department extended several offers to accommodate the Claimant when it came to PATH compliance. Eventually the time came when Claimant and her fiancé had to decide whether the cash assistance was worth the effort to comply. They have not established that they had good cause for not being able to comply with the PATH program in a three-month period.

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 determined that Claimant failed to comply with the training requirements.

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 24, 2014

Date Mailed: March 24, 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

DTJ/las

cc:

