

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

IN THE MATTER OF:

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

Reg.No. 2014 31225
Issue No. 1008
Case No. ██████████
Hearing Date: April 7, 2014
County: Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 7, 2014. The Claimant appeared and testified. ██████████, Family Independence Manager appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's cash assistance (FIP) application for failure to attend PATH Orientation.

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 an ongoing Cash Assistance (FIP) recipient.
2. The Claimant was assigned to attend PATH orientation on January 13, 2014 and received the notice of Path appointment late. The Claimant called her worker to reschedule the appointment due to the late notice.
3. The Department closed the Claimant's FIP case on February 28, 2014 due to failure to attend Path Orientation and imposed a first 3 month sanction on the Claimant.
4. The Claimant did not receive a new PATH appointment to attend Path orientation.
5. The Department sent a Notice of Noncompliance dated January 22, 2013 to the Claimant which scheduled a triage for January 30, 2014.
6. The Claimant requested a hearing on March 3, 2014 protesting the failure of the Department's actions closing her FIP case.

CONCLUSIONS OF LAW

☒ 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 to receiving FIP benefits the Department policies require clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the PATH Program or other employment service provider. 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. BEM 233A

In this case the Claimant did not attend the PATH program appointment (first) as scheduled because she received the Path Appointment Notice late. On the day of the appointment the Claimant called her worker two times in an effort to reschedule the appointment and did not hear back from her caseworker. The Department sent a Notice of Non Compliance to the Claimant at the correct post office box address on January 22, 2014. The Claimant testified that she did not receive the Notice and thus did not attend the triage. The Department held a triage which the Claimant did not attend and found no good cause and sanctioned the Claimant's FIP case with a 3 month sanction. The Department did not provide a Notice of Case Action as part of the hearing record.

At the hearing the Claimant testified credibly that she could not attend the 8:30 a.m. Path appointment due to the late receipt of her notice of appointment. The Claimant testified that she had been previously assigned to attend PATH near her home and the new Path location required Claimant to take two busses after she dropped her children at school. At the time the Claimant did not have day care arranged for her children who had to be at school at 8:30a.m. The Claimant expressed barriers at the hearing that she could not advise the Department of until she was reassigned to attend at a new and different location that made more difficult her attending the program. In addition, the Claimant's car was broken down and thus she was reliant solely on the Detroit bus system. .

The Department did not rebut the Claimant's testimony that she called to reschedule the Path appointment for orientation and never received a phone call from her caseworker. Under these circumstances it is determined that the Claimant had good cause to not

attend the Path orientation due to late notice receipt and that the Department was required to reschedule the appointment.

The last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. **If the client calls to reschedule before the 15th day, extend the Last Date for Client Contact on OSMIS. Either DHS or the one-stop service center have the capability of extending this date.** BEM 230 A pp.5, (10/1/13)

The Claimant also testified that she did not receive the Notice of Noncompliance even though it was addressed to the correct P.O. Box address. Claimant also testified that she regularly checked her P.O. Box and has had difficulty receiving mail from DHS. In addition, it is determined that the late receipt of the Notice to Attend Orientation also did not allow time for the Claimant to obtain child care and because the department did not contact the Claimant to reschedule her PATH appointment the Claimant's child care barriers were never discussed or resolved. The Claimant has two children to take to school by bus which starts at 8:30am which made it impossible for the Claimant to attend the Path program on the date of the receipt of the late notice. The Claimant did not receive any subsequent appointment notices and none were produced at the hearing.

BEM 233A provides:

No Child Care

The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

Appropriate. The care is appropriate to the child's age, disabilities and other conditions.

Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.

Suitable provider. The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.

Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS. BEM 233A pp. 5, (7/1/13).

Based upon the Claimant's credible testimony and the Department's failure to present evidence that no phone calls were received to reschedule the Path appointment the Department did not meet its burden to show that it properly closed and sanctioned the Claimant's FIP case. Based upon the evidence and testimony of the parties it is determined that the Claimant's failure to attend a PATH Orientation was due to the late receipt of the appointment notice, the claimant's lack of child care and barriers to participation which were not addressed, and lastly the Department's failure to provide a new appointment. Therefore it is determined that the Department improperly closed Claimant's FIP case and that Claimant's case must be reinstated and Claimant reassigned to attend the Path program after the child care barriers are resolved. The Claimant was advised at the hearing that the Department has no discretion as to where the Claimant is assigned to attend PATH.

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

☒ failed to satisfy its burden of showing that it acted in accordance with Department policy when the Department improperly closed the Claimant's FIP case for failure to attend the PATH orientation appointment as it did not demonstrate that it provided the Claimant with a new PATH appointment Notice or establish that the Claimant was afforded the opportunity to attend PATH Orientation at a later date.

DECISION AND ORDER

Accordingly, the Department's decision is

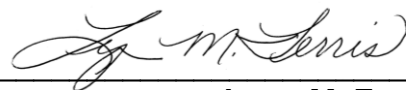
☒ REVERSED.

☒ 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. The Department shall reinstate the Claimant's FIP case retroactive to the date of closure and provide the Claimant a new PATH Appointment Notice to attend the PATH Program and shall address any child care barriers the Claimant may have.

2014 31225/LMF

2. The Department shall remove from the Claimant's case record the first sanction it imposed.
3. The Department shall issue a FIP supplement for any FIP benefits the Claimant is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 10, 2014

Date Mailed: April 10, 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 31225/LMF

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

LMF/tm

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]