

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 13-000234
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: December 17, 2014
County: SAGINAW

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 December 17, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself and CMH worker [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED] and PATH worker [REDACTED]. It is noted that a single hearing was conducted for both Register # [REDACTED] and [REDACTED].

ISSUES

Did the Department properly sanction Claimant's Family Independence Program (FIP) for noncompliance with the Partnership, Accountability, Training, Hope (PATH) program in October 2013?

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 Family Independence Program (FIP) benefits.
- (2) On August 12, 2013, Claimant was placed in noncooperation status by the Office of Child Support.
- (3) On August 13, 2013, Claimant was sent a Redetermination (DHS-1010) form. The form and associated verifications were due on September 6, 2013.

- (4) On August 14, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program would close on September 1, 2013, due to noncooperation with the Office of Child Support.
- (5) On August 15, 2013, Claimant submitted job search information and met with PATH worker Hughes.
- (6) On August 16, 2013, Claimant was at PATH and received bus passes for the last two weeks of August.
- (7) On August 22, 2013, Claimant came to PATH for a scheduled meeting with PATH worker Hughes but Ms. Hughes was not in.
- (8) On August 28, 2013, Claimant was left a phone message rescheduling the meeting that Ms. Hughes missed for August 30, 2013.
- (9) On August 30, 2013, Claimant spoke with PATH worker Hughes on the telephone. Claimant reported that DHS was closing her FIP over child support information. Ms. Hughes explained the PATH closure procedure to Claimant.
- (10) On September 4, 2013, Claimant was terminated from PATH due to DHS case closure on August 28, 2013.
- (11) On September 20, 2013, Claimant returned the August 13, 2013 Redetermination (DHS-1010) form.
- (12) On October 3, 2013, Claimant was sent a Partnership, Accountability, Training, Hope (PATH) Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend Partnership, Accountability, Training, Hope (PATH) beginning October 14, 2013.
- (13) On October 5, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated that as of September 1, 2013, she was eligible for \$█ per month of Family Independence Program benefits for a benefit group of 2.
- (14) On October 22, 2013, Claimant had not attended PATH. She was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for October 29, 2013. Claimant was also sent a Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) would be sanctioned beginning November 1, 2013.

- (15) On October 29, 2013, Claimant did attend the scheduled meeting. Claimant did not dispute her failure to attend PATH but asserted she had not attended because her baby sitter did not show up. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities.
- (16) On November 6, 2013, Claimant submitted a request for hearing about her Family Independence Program closing because she did not attend PATH.
- (17) On November 26, 2014, Claimant's November 6, 2013, hearing request was submitted to Michigan Administrative Hearing System along with an October 21, 2014 hearing request about a second sanction of her Family Independence Program beginning October 1, 2014.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Department's policies are available on the internet through the Department's website. Bridges Eligibility Manual (BEM) 233A Failure To Meet Employment and/or Self-Sufficiency Related Requirements: FIP, provides guidance for administration of the Partnership, Accountability, Training, Hope (PATH) program. The policy identifies participation requirements, actions that are noncompliant, the consequences of noncompliance, and the definition of good cause for noncompliance.

Noncompliance of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- Failing or refusing to:
 - Appear and participate with Partnership, Accountability, Training, Hope (PATH) or other employment service provider.
 - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - Develop a Family Self-Sufficiency Plan (FSSP).
 - Comply with activities assigned on the FSSP.
 - Provide legitimate documentation of work participation.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related

activities.

- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

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 Department alleged that Claimant was noncompliant when she did not attend PATH beginning October 14, 2013. Claimant does not dispute that she did not go to PATH on October 14, 2013. The Findings of Fact section above provides details of the chronological sequence of events and notices during the two months prior to this alleged noncompliance. The MIS Case Notes from August 2013 show that Claimant was participating in PATH before she was: sent notice her FIP case was closing; terminated from PATH because her FIP case was closed; told to go to PATH; and then told, after the fact, that her FIP case was not closed. A speculative analysis of what Claimant should have known, she was actually required to do, during that time period could not result in any definitive answers. The evidence in this record does not convince this Administrative Law Judge that Claimant was provided clear and/or reliable requirements regarding participation in PATH. The absence of clear and/or reliable notice of required actions, precludes sanctioning for failure to perform.

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 it sanctioned Claimant's Family Independence Program (FIP) for noncompliance with the Partnership, Accountability, Training, Hope (PATH) program on October 14, 2013.

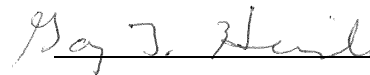
DECISION AND ORDER

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. Delete any recorded Family Independence Program sanction based on Claimant's noncompliance with the Partnership, Accountability, Training, Hope (PATH) program in October 2013.
2. Supplement Claimant any Family Independence Program benefits she was otherwise eligible for, but did not receive due to this improper action.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/22/2015**

Date Mailed: **1/22/2015**

GFH/hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

