

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-012607
Issue No.: 1001
Case No.: ██████████
Hearing Date: November 26, 2014
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 November 26, 2014, from Detroit, Michigan. Claimant and ██████████, Claimant's mother appeared and testified on Claimant's behalf. ██████████, Family Independence Specialist, appeared and testified on behalf of the Department of Human Services (Department).

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case?

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 September 1, 2014, the Department closed Claimant's FIP case.
3. On September 10, 2014, Claimant filed a request for hearing disputing the Department's actions.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Claimant requested a hearing alleging that the Department improperly closed her FIP case for failing to attend a PATH program. The Department responded that Claimant's FIP case was closed because she had lost employment.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client is noncompliant with FIP-related employment activities if the client refuses suitable employment. BEM 233A, p. 3. Department policy defines "refusing suitable employment" to include voluntarily reducing hours or otherwise reducing earnings, quitting a job, or being fired for misconduct or absenteeism (not for incompetence).

The Department did not present any documentation in support of its closure of Claimant's FIP case due to loss of employment. Claimant credibly testified that her employer advised her in June 2014 that she could not continue her employment because her pregnancy made her unable to perform her job duties and that she notified the Department of the employer's actions. She presented a statement signed by her employer indicating that she had been released from employment in June 2014 (Exhibit B). Claimant also presented documentation to the Department in June 2014 and October 2014 to establish limitations to work activities due to her pregnancy (Exhibit A). Based on the evidence presented, Claimant established that she did not refuse suitable employment. Therefore, to the extent that the Department closed Claimant FIP case due to loss of employment, the Department did not act in accordance with Department policy.

A client is also in noncompliance with FIP employment-related activities if the client fails to appear and participate with PATH. BEM 233A, p. 2. Claimant admitted that she was referred to PATH and attended with her child because she did not have day care. The lack of day care is good cause for noncompliance with PATH if the client requested child care services from the Department, 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 clients' home or work site. BEM 233A, p. 5. Claimant testified that she had advised the Department that she could not attend PATH because of lack of day care and had requested assistance. The Department did not present any case in response to

Claimant's testimony concerning her failure to participate in the PATH program. Therefore, to the extent that the Department closed Claimant's FIP case due to failure to participate in PATH, Claimant established that she had good cause for any noncompliance.

It is further noted that there was no evidence presented that the Department scheduled a triage meeting to give Claimant the opportunity to explain her noncompliance and any good cause reasons before closing her active FIP case. In failing to do so, the Department did not act in accordance with policy. BEM 233A, pp. 9-10.

Under the evidence presented, where Claimant did not refuse suitable employment and she had good cause for failing to attend PATH, to the extent that the Department applied a sanction to Claimant's FIP case for any alleged noncompliance with PATH, the Department did not act in accordance with Department policy. See BEM 233A, p. 8.

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 closed and sanctioned Claimant's FIP case.

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. Remove any FIP-related employment sanction applied to Claimant's FIP case on or about September 1, 2014;
2. Reinstate Claimant's FIP case effective September 1, 2014; and
3. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from September 1, 2014 ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/4/2014**

Date Mailed: **12/4/2014**

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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