

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

IN THE MATTER OF:



Reg. No.: 14-017395
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 13, 2015
County: Ingham

ADMINISTRATIVE LAW JUDGE: Darryl 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 January 13, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] Eligibility Specialist [REDACTED] and PATH Worker [REDACTED]

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) cash 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 was a FIP recipient.
2. To receive FIP, Claimant was required to participate in the Partnership for Accountability, Training and Hope (PATH) program which requires regular participation in self-sufficiency and work-related activities.
3. Claimant missed scheduled appointments for November 4, 5, part of November 6, November 7, 10, 11, 12, 13, and 14, 2014.
4. Claimant provided documentation from her physician that medical conditions prevented her from participating on November 5, 11, and 12.
5. Claimant's PATH worker gave her an opportunity to meet on November 19 and explain why she had missed her scheduled activities.

6. Claimant verbally reported health issues to her worker, but she did not provide any documentation to support the absences which were an issue.
7. A triage meeting was held on November 26, 2014 and Claimant again verbally reported health issues but did not provide any statements from a health care provider to excuse her absences.
8. The Department found Claimant had not established good cause for her non-participation in the PATH program and closed her FIP. It also imposed a three-month sanction barring her from receiving FIP.
9. The Department received Claimant's hearing request on November 25, 2014.

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.

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 a health issue that prevented her from working. She had a doctor’s note explaining two days of her absence. During the triage, her explanation for the absence on November 5 was accepted. Her explanation for her absence on November 11 and 12 (along with the doctor note) was sufficient for her absences to be excused. But, she did not have sufficient explanation for her absences on November 4, 6 (partial day), 13, and 14.

At the hearing, which was held several weeks after the negative action effective date, Claimant produced the note, but it only excused two days. She also testified that the doctor had asked her how many days she needed off, and she said just two, which is why only two days were excused. Despite her claim that she needed more days off because of her health issue, and despite being aware that she needed documentation to excuse her absences, she did not obtain any additional documentation even for the hearing.

It is possible that the Department could have found Claimant had established good cause for non-compliance, if only she had contacted her doctor and obtained a statement excusing her from the additional missed days. But, since she did not provide the explanation, the Department properly found that she had not established good cause prior to the effective date of the negative action. Consequently, she was properly subject to a disqualification.

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.

“A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

Delay in eligibility at application.

Ineligibility (denial or termination of FIP with no minimum penalty period).

Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of

noncompliance and lifetime closure for the third episode of noncompliance.

The evidence establishes that this is her first instance of noncompliance. The penalty period is mandatory if a client fails, without good cause, to participate in employment or self-sufficiency-related activities.

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

Date Signed: **1/15/2015**

Date Mailed: **1/15/2015**

DJ/las

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:

