

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018160
Issue No.: PATH
Case No.: [REDACTED]
Hearing Date: January 21, 2015
County: SCHOOLCRAFT

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 21, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist, and [REDACTED], Work First Manager, Michigan Works Agency.

ISSUES

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

Did the Department properly decrease the Claimant's FAP group's monthly allotment due to the FIP sanction?

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 recipient of FIP benefits and a mandatory PATH participant.
2. Claimant was a recipient of FAP benefits.
3. On November 12, 2014, the Department mailed Claimant a letter of Noncompliance (DHS-2444) based on no participation in required activity.

4. On November 12, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective December 1, 2014, due to an alleged violation of the PATH program requirements and that the FAP monthly allotment would decrease to \$ [REDACTED] for the remaining group members as the Claimant was no longer eligible due to the FIP non-compliance.
5. On December 9, 2014, the Claimant filed a request for hearing contesting the Department's action.

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).

FIP

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.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each Work Eligible Individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A.

A WEI and non-WEIs¹, who fails to participate in employment or self-sufficiency-related activities without good cause, 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 goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM 233A.

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

Noncompliance of applicants, recipients, or member adds includes, without good cause, failing or refusing to: appear and participate with PATH or other employment service provider; 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; and participate in required activity. 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. A claim of good cause must be verified and documented for member adds and recipients. BEM 233A.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233 A.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements due to missing appointments with the Michigan Works Agency, failing to provide documentation of employment hours, and not starting an assigned work experience program. After the completion of the PATH orientation on October 7, 2014, Claimant's required participation was 35 hours per week. During orientation, Claimant brought in one check stub, which showed 24 hours each week. Claimant would need to make up any hours additional hours to reach 35 per week as needed during the month. Claimant had a weekly meeting on Mondays to provide the required documentation of completing his hours. Claimant missed appointments. Claimant had also been assigned to begin a work experience program to meet his hours. Claimant did not return the signed contract to start that program.

On November 7, 2014, a Warning Notice was issued to Claimant, in part giving notice of a November 10, 2014 appointment to address the missing hours and noncompliance.

On November 12, 2014, the Department mailed Claimant a letter of Noncompliance based on no participation in required activity.

A Triage Meeting Notice was scheduled for November 21, 2014, and notice was mailed to Claimant. A triage meeting was held without Claimant and the Department did not find good cause for the non-compliance.

Claimant indicated he thought that he had brought in check stubs. Claimant recalled bringing in check stubs when he got them every two weeks. However, it appears what Claimant recalls is from his prior PATH case and not for this recent re-referral to PATH in October 2014. The Work First Manager testified that the weekly meetings were

scheduled for Mondays, but there was an understanding that if Claimant had to work he could come in after work or meet the following day that the Michigan Works Agency was open. The Work First Manager testified that no meetings were held after October 17, 2014. Further, the Work First Manager testified that the only check stub Claimant submitted was received during the PATH orientation and only showed 24 hours per week.

Claimant also did not understand why he had to re-do the paperwork for the work experience program to meet his hours. Again, this was a new case from the October 2014 referral to PATH, not a continuation of his prior case. Therefore, a current contract was needed. Claimant testified that every time he went to that location to have the contract signed, the person he was supposed to contact was not available. Claimant would come back on the days that person was supposed to be working, but she would still be out of the office.

However, the evidence does not establish that Claimant showed for his weekly meetings at the Michigan Works Agency, or otherwise kept in contact with them to document what participation hours he was able to complete through work and to address any barriers to completing assigned activities, such as the issues with getting the contract signed for the work experience program.

Claimant has not provided sufficient evidence of good cause for the non-compliance of not participating in required activities and missed meetings. Accordingly, the closure and sanction of the Claimant's FIP case based on his noncompliance with the PATH program requirements is upheld.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the two situations, one of which is when client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233 B.

A FAP group member is disqualified for noncompliance when all the following exist: the client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance; the client did not comply with FIP/RCA employment requirements; the client is subject to

a penalty on the FIP/RCA program; the client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B); and the client did not have good cause for the noncompliance. BEM 233 B.

In this case, Claimant was active for both FAP and FIP on the date of noncompliance; Claimant did not comply with the FIP employment requirements for PATH; Claimant is subject to a penalty for FIP; the Claimant was not deferred from FAP work requirements; and good cause has not been established for Claimant's non-compliance. Accordingly the determination to disqualify Claimant from the FAP group, resulting in the decrease in the FAP group's monthly allotment, is upheld.

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 closed and sanctioned the Claimant's FIP case based on his noncompliance with the PATH program requirements and when it reduced Claimant's FAP group's monthly allotment based on the FIP sanction.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

Colleen Lack

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

Date Signed: **1/30/2015**

Date Mailed: **1/30/2015**

CL/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:

