

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018216
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 21, 2015
County: EATON

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], Hearing Coordinator, and [REDACTED], PATH Coordinator.

ISSUE

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's family receives ongoing FAP benefits.
2. Claimant applied for FIP on July 26, 2013.
3. FIP was approved with Claimant and his wife initially being granted a deferral from PATH pending a Medical Review Team (MRT) disability decision regarding Claimant's wife and for Claimant as her caretaker.

4. Medical records were obtained through April 2014.
5. On September 24, 2014, the medical evidence was submitted to the MRT incorrectly indicating a July 26, 2014, application date.
6. On September 26, 2014, the MRT denied the PATH deferral finding Claimant's wife was not disabled-work ready with limitations.
7. Claimant and his wife became mandatory PATH participants due to the MRT determination.
8. On October 17, 2014, a PATH Appointment Notices were sent giving notice of an appointment on October 27, 2014.
9. On November 26, 2014, the Department mailed Claimant Notices of Noncompliance (DHS-2444) based on no initial contact with Michigan Works Agency (MWA).
10. On November 26, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective January 1, 2015, due to an alleged violation of the PATH program requirements and that the FAP monthly allotment would decrease to \$█ for the remaining group members as the Claimant and his wife were no longer eligible due to the FIP non-compliance.
11. On December 4, 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.

WEIs meeting one of the several criteria, including disability, are only temporarily not referred to an employment service provider. A short-term incapacity allows for a deferral for up to three months for persons with a verified mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation. A long term incapacity may be identified at intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. Determination of a long-term disability is a three step process. Included this process, the client must provide verification/required documentation, a medical packet is submitted to the Medical Review Team (MRT) for a determination, and a deferral is allowed pending the establishment of incapacity. The local office must then follow the MRT determination. For example, recipients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230A.

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.

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; appear for a scheduled appointment or meeting related to assigned activities. 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. The policy lists several circumstances for good cause, including client unfit (The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance) and illness or injury (The client has a debilitating

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

illness or injury, or a spouse or child's illness or injury requires in-home care by the client.) 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 reviewing the applicable policy, it does not appear that there is any jurisdiction for this ALJ to review the MRT determination itself. Rather, this analysis will focus on the processing of the application and review the non-compliance determination and resulting case actions.

In this case, the Claimant applied for FIP on July 26, 2013. FIP was approved with Claimant and his wife initially being granted a deferral from PATH pending a MRT disability decision regarding Claimant's wife and for Claimant as her caretaker.

The evidence shows that the Department did not promptly submit this case to the MRT. It appears that eventually, medical records through April 2014 were gathered. Then, the medical evidence was not submitted to the MRT until September 24, 2014. It is also noted that the application date on the MRT submission for the PATH determination incorrectly stated July 26, 2014. On September 26, 2014, the MRT denied the PATH deferral finding Claimant's wife was not disabled-work ready with limitations. Claimant and his wife became mandatory PATH participants due to the MRT determination.

It is not clear why so many delays occurred that it took over one year to send this case to the MRT. Further, the medical records were no longer current when the MRT reviewed potential incapacity for Claimant's wife in September 2014. . Additionally, as submitted to the MRT, the records may have given the mistaken impression that there had not been any medical treatment since the incorrect application date of July 26, 2014.

Claimant's testimony also pointed out that he was not given an opportunity to submit any current medical records, documenting any changes in medical condition(s) for the September 2014 MRT review. Claimant continues to assert incapacity that precludes PATH participation for his wife, and the continuing need for himself to be her caretaker. Claimant testified he has additional medical records to provide.

Claimant has provided sufficient evidence of good cause for the non-compliance of not participating with PATH for the November 2014 case actions. There was no evidence indicating that any of the delays noted above were caused by Claimant or that Claimant ever failed to submit requested documentation or verifications. Further, there was no evidence that Claimant was allowed to provide current medical records for the MRT

review in September 2014. The MRT determination affected the current requirement to participate in PATH. Accordingly, the closure and sanction of the Claimant's FIP case based on the noncompliance with the PATH program requirements cannot be 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 and his wife were active for both FAP and FIP on the date of noncompliance. Good cause has been established for the non-compliance. Accordingly, the determination to disqualify Claimant and his wife from the FAP group, resulting in the decrease in the FAP group's monthly allotment, cannot be 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 failed to satisfy its burden of showing that it 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 **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. Re-instate the FIP case retroactive to the January 1, 2015, effective date, if not done previously, and remove the sanction(s) for Claimant and his wife.
2. Re-determine FIP eligibility, to include allowing a deferral pending re-submission of current medical records to the MRT for a new determination, in accordance with Department policy.
3. Re-determine FAP eligibility retroactive to the January 1, 2015, effective date without the FIP sanction in accordance with Department policy.
4. Issue Claimant any supplement he may thereafter be due.



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

Date Signed: **1/29/2015**

Date Mailed: **1/29/2015**

CL/jaf

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:

