

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

IN THE MATTER OF:



Reg. No.: 15-000916
Issue No.: PATH
Case No.:
Hearing Date: February 18, 2015
County: INGHAM

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 February 18, 2015, from Lansing, Michigan. Participants on behalf of Claimant included , the Claimant, and Cousin. Participants on behalf of the Department of Human Services (Department) included , Hearing Facilitator.

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?

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.
2. On September 22, 2014, Claimant submitted medical verification that she could not participate in employment related activities.
3. Claimant was deferred from PATH from September 17, 2014 through October 29, 2014.
4. Claimant was initially given an appointment to attend PATH on November 10, 2014, which was extended at Claimant's request to November 24, 2014, to allow for Claimant to apply for day care.
5. On November 24, 2014, Claimant called the Department reporting she is in the hospital and she is unable to attend the PATH appointment.

6. On November 25, 2014, the Department called Claimant at the hospital, Claimant requested a PATH deferral due to medical issues.
7. On November 25, 2014, a Verification Checklist was issued to Claimant requesting verification of disability by the December 5, 2014 due date.
8. No verification(s) were received by the Department.
9. On December 18, 2014, a PATH Appointment Notice was issued to Claimant with an appointment date of December 29, 2014, at the Capital Area Michigan Works (MWA) office in Lansing, MI. This notice also addressed the 21 day application eligibility period, and, in part, stated that if Claimant did not appear within 15 days of this notice, the application would be denied.
10. Claimant did not attend the MWA appointment.
11. On January 5, 2015, a Notice of Noncompliance was issued to Claimant based on no initial contact with MWA and notice of a new appointment date of January 14, 2015, at MWA was included.
12. On January 5, 2015, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 6 months effective February 1, 2015, due to an alleged violation of the PATH program requirements.
13. On January 14, 2015, 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).

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, 10-1-2014, p. 1.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three

months. The Department is to verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs PATH, or other written statement from an MD./D.O./P.A. BEM 230 A, pp. 11-12.

WEIs meeting specific criteria, including short-term incapacity, are only temporarily not referred to an employment service provider. If the WEI refuses or fails to provide verification of a deferral when required, the Department is to refer him/her to PATH. BEM 230 A, pp. 7.

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, 10-1-2014, p. 1.

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, p. 2.

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. Good cause includes: the client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information; the client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client; and the client requested child care services from DHS, 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 client's home or work site. BEM 233A, pp. 4 and 5. (Emphasis added by ALJ)

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, pp. 9-10.

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

Additionally, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if they needs and requests help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, 10-1-2014, pp. 1-6.

In this case, the Department asserts that the Claimant has been noncompliant with the PATH program requirements based on no initial contact with MWA.

On September 22, 2014, Claimant submitted medical verification that she could not participate in employment related activities. Claimant was deferred from PATH from September 17, 2014 through October 29, 2014.

Claimant was initially given an appointment to attend PATH on November 10, 2014, which was extended at Claimant's request to November 24, 2014, to allow for Claimant to apply for day care.

On November 24, 2014, Claimant called the Department reporting she is unable to attend the PATH appointment because she is in the hospital. On November 25, 2014, the Department called Claimant at the hospital and Claimant requested a deferral due to medical issues.

On November 25, 2014, a Verification Checklist was issued to Claimant requesting verification of disability by the December 5, 2014 due date. No verifications were received by the Department; therefore, a deferral from PATH participation could not be considered.

On December 18, 2014, a PATH Appointment Notice was issued to Claimant with an appointment date of December 29, 2014, at the MWA office. This notice also addressed the 21 day application eligibility period, and, in part, stated that if Claimant did not appear within 15 days of this notice the application would be denied. Claimant did not attend the December 29, 2014, appointment.

On January 5, 2015, a Notice of Noncompliance was issued to Claimant based on no initial contact with MWA and notice of a new appointment date of January 14, 2015, at MWA was included. On January 5, 2015, a Notice of Case Action was also issued to Claimant stating the FIP case would close for at least 6 months effective February 1, 2015, due to an alleged violation of the PATH program requirements.

A triage meeting was held, during which Claimant stated she was hospitalized until Thanksgiving, she did not receive the Verification Checklist and PATH referral, and she would have needed day care to attend PATH. The Department did not find good cause for the non-compliance.

Claimant testified that she was hospitalized November 20-28, 2014. Claimant stated that when she got out of the hospital, she did not receive the forms and notices the Department mailed to her. Claimant noted she spent a few days at her mother's home when she left the hospital, but acknowledged that she did not give a different mailing address to the Department if she was not going to be home to receive mail. Claimant also raised the possibility that her husband may have received the mail. While the husband is not in the home due to a separation based on domestic violence, he was helping with the children at the time.

The evidence shows that the Department tried to work with the Claimant regarding requested deferral and re-scheduling of appointments for the PATH program. When the initial deferral ended, Claimant was properly referred to PATH. In November 2014, Claimant was given a second PATH appointment date to allow her time to apply for child care. When Claimant then reported she was in the hospital requested another deferral due to her medical conditions, the Department properly requested verification. When there was no response to the verification request, the Department properly scheduled another PATH appointment. The Department mailed the Verification Checklist and appointment notices to Claimant's address. Claimant never provided an alternative mailing address. There was no evidence that Claimant attended any of the PATH appointments. Claimant has still not provided recent medical verification to establish that she is unable to participate. As cited above, the Department policy requires that a claim of good cause must be verified and documented. With no medical verification, good cause cannot be found for the non-compliance of not attending the PATH appointment.

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 her noncompliance with the PATH program requirements.

DECISION AND ORDER

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



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

Date Signed: **2/26/2015**

Date Mailed: **2/26/2015**

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:

