

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 14-016702
Issue No.: 1008
Case No.: ██████████
Hearing Date: January 07, 2015
County: WAYNE-55 (HAMTRAMCK)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, FIS.

ISSUE

Did the Department properly close and sanction Claimant's FIP case for failing to attend work-related activities?

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 FIP recipient in Wayne County.
2. Claimant was a mandatory PATH participant.
3. Claimant allegedly did not meet participation requirements.
4. Claimant was scheduled for a PATH orientation appointment on October 13, 2014, October 20, 2014, and October 27, 2014, which are all Mondays.
5. Orientation appointments are only held on Mondays.
6. Clients are required to attend orientation appointments to become active with the PATH program.

7. Orientations start at 9:00 a.m. and end at 3:00 p.m., and attendees must be there for the entire session in order to get credit for attending orientation.
8. No provision exists to allow attendees to split session attendance.
9. Claimant is currently attending school, and was required to attend class on Mondays, which conflicted with the PATH orientation appointment.
10. Claimant had verified her school days and hours with DHS and PATH, and her school was considered an approved activity that would meet PATH hour requirements.
11. Claimant did not attend PATH orientation, choosing instead to attend class.
12. Claimant was referred to triage for failing to attend the PATH program.
13. On Claimant was scheduled for a triage to be held on November 12, 2014.
14. Claimant's FIP case was closed and a 3 month sanction was applied.
15. On November 12, 2014, Claimant requested a hearing.

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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Partnership, Accountability, Training, and Hope (PATH) program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. Clients who have not been granted a deferral must participate in employment and/or self-sufficiency related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called

“noncompliance”. BEM 233A defines noncompliance as failing or refusing to, without good cause:

“...Appear and participate with the PATH Program or other employment service provider...” BEM 233A pg. 1.

However, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance at application is group ineligibility. BEM 233A.

After reviewing the facts of the case, the undersigned cannot reach the conclusion that Claimant was noncompliant.

Noncompliance requires a finding that Claimant failed or refused to attend work-related activities. At no point did Claimant fail or refuse to attend work related activities; Claimant chose to attend her school, a work related activity, rather than a PATH orientation session, which is a different work related activity. During the time period in question, Claimant was attending work related activities.

Furthermore, the Department was aware before assigning Claimant to PATH that there were conflicts. Claimant notified PATH of the conflict. At no point did Claimant refuse to go to PATH, but only stated that conflicts prevented her from attending; in fact, attending PATH would very well cause Claimant to do poorly in her classes..

Finally, while a Claimant can be required to attend an orientation session, at no point does policy require that the orientation session be held on a Monday, between the hours of 9am and 3pm only. Claimant at no point stated a refusal to attend orientation; Claimant only stated that, due to her current school situation, she could not attend orientation on a Monday between those specific hours.

The Department testified that Claimant could only attend PATH on that Monday; no other orientation sessions were available, and no other reasonable accommodations could be made for clients who had scheduling conflicts such as the one in the current case. Claimant could not be allowed, for instance, to attend part of the orientation on one day, before her after her classes, and attend the other part of the orientation on another day.

While this may in fact be true, the undersigned fails to see how this is the fault of the Claimant, or is in anyway the Claimant’s problem. If the Department refuses to offer orientation sessions on any other day of the week, or some other sort of reasonable accommodation, to allow a Claimant to participate in self-sufficiency related activities

outside of PATH, the Department cannot attempt to penalize Claimants who have very real scheduling conflicts.

When asked whether it was the policy of the Department of Human Services that clients skip class in order to attend orientation sessions, the Department testified that the current policy left little room for leniency and that the caseworkers in question were not allowed to override the requirement to attend PATH orientation on a Monday.

However, leaving aside the fact that there is no policy requirement for orientation sessions to be held on a Monday, BEM 233A states explicitly that the focus of the PATH program is “to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency”.

Requiring a Claimant to be absent from school in order to attend an orientation session on a particular day is completely counter to the Department’s stated mission as codified in policy. The Department’s requirement that their clients attend PATH orientation only on a specific day, regardless of job or school commitments, is, in itself, a barrier to self-sufficiency. The Department is required to remove these barriers, and thus must offer some sort of reasonable accommodation to clients in the situation presented in the current case.

For these reasons, the Administrative Law Judge holds that the Department has failed to meet their burden in showing that the Claimant was noncompliant. The Department was in error when it failed to offer a reasonable accommodation to the Claimant and placed barriers to self-sufficiency by requiring that Claimant only attend an orientation session on a Monday.

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 imposed a 3 month sanction for noncompliance.

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 all sanctions against Claimant's FIP case, and reinstate Claimant's FIP benefits retroactive to the date of negative action.



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

Date Signed: **1/22/2015**

Date Mailed: **1/22/2015**

RJC / tm

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]