

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

**IN THE MATTER OF:**

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

Reg. No.: 15-001735  
Issue No.: 1008  
Case No.: ██████████  
Hearing Date: March 9, 2015  
County: WAYNE-DISTRICT 19  
(INKSTER)

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**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 March 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, Philip Henderson. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Manager; ██████████ ██████████ DHS Coordinator from ██████████ (ETD) (witness 1); and ██████████, ██████████ ██████████ from ETD (witness 2)

**ISSUE**

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-related activities without good cause?

**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 ongoing recipient of FIP benefits.
2. On December 26, 2014, the Partnership. Accountability. Training. Hope. (PATH) program sent Claimant a non-compliance warning notice due to him not submitting his employment verification. See Exhibit 1, p. 6. The non-compliance notice informed Claimant that he has to attend the PATH program by January 5, 2015.

3. On December 30, 2014, Claimant contacted witness 2 and informed him that he received the non-compliance warning notice. See Exhibit 1, p. 5. Claimant informed witness 2 that he no longer worked (self-employment ended).
4. On January 2, 2015, the PATH program case notes indicated that witness 2 left a voicemail for Claimant informing him that he had to attend the PATH program on January 5, 2015. See Exhibit 1, p. 5.
5. On January 5, 2015, Claimant failed to attend his scheduled appointment. See Exhibit 1, p. 5.
6. On January 6, 2015, Claimant contacted the Department in regards to his inability to attend his scheduled appointment; however, he contacted a different county. See Exhibit 1, p. 5. Claimant informed the Department that he was unable to attend because his furnace broke and he is waiting for a repair man. See Exhibit 1, p. 5. The PATH program case notes indicated that Claimant was informed to provide documentation for his missed appointment. See Exhibit 1, p. 5.
7. On January 14, 2015, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on January 20, 2015. Exhibit 1, p. 9.
8. January 14, 2015, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective February 1, 2015, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1, pp. 7-8.
9. On January 20, 2015, Claimant attended the triage appointment; however, the Department still found no good cause for the non-compliance. See Exhibit 1, pp. 1 and 4.
10. On January 26, 2015, Claimant filed a hearing request, protesting his FIP case closure. See Exhibit 1, pp. 2-3.

### **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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1. As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (October 2014), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: (i) failing or refusing to appear and participate with PATH or other employment service provider; or (ii) failing or refusing to provide legitimate documentation of work participation; or (iii) failing or refusing to appear for a scheduled appointment or meeting related to assigned activities. See BEM 233A, pp. 2-3 (additional non-compliance reasons).

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Good cause is determined during triage. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective February 1, 2015, in accordance with Department policy.

First, this Administrative Law Judge (ALJ) has to determine if a non-compliance is present in this case. The Department found Claimant to be in noncompliance based on his failure to attend the scheduled PATH appointment on or before January 5, 2015, as well as his failure to provide verification of his wage earning activity. It was not disputed that Claimant was self-employed at one point. The Department/PATH program alleged it sent Claimant a postcard requesting that he provide verification of his self-employment; however, Claimant denied every receiving such correspondence. See BEM 228 (July 2014), pp. 21-22 (Verification of Wage Earning Activity). Because Claimant failed to provide verification of his self-employment income, the PATH program sent Claimant a non-compliance warning notice. See Exhibit 1, p. 6. The non-compliance notice informed Claimant that he has to attend the PATH program by January 5, 2015. Claimant confirmed during the hearing that the non-compliance notice informed him to attend on January 5, 2015 at 9:00 a.m. Witness 2 also testified that he informed Claimant on two separate occasions (via telephone and left a voicemail) to attend his appointment on or before January 5, 2015. See Exhibit 1, p. 5. It should be noted that Claimant testified he never received a voicemail on January 2, 2015. On

January 5, 2015, Claimant failed to attend his scheduled appointment. See Exhibit 1, p. 5. Based on the above information, it is found that Claimant was in non-compliance for his failure to attend his scheduled appointment. See BEM 233A, pp. 2-3.

Second, even though there is a non-compliance present in this case, Claimant can still provide a good cause reason for the non-compliance. On January 6, 2015, Claimant contacted the Department in regards to his inability to attend his scheduled appointment; however, he contacted a different county. See Exhibit 1, p. 5. Nevertheless, Claimant informed the Department that he was unable to attend because his furnace broke and he was waiting for a repair man. See Exhibit 1, p. 5. The PATH program case notes indicated that Claimant was informed to provide documentation for his missed appointment. See Exhibit 1, p. 5. Both parties acknowledged that Claimant never submitted proof that his furnace was broken (i.e., repair work order/receipt); however, Claimant argued that he was never informed to provide such verification.


Additionally, Claimant testified that he notified the Department at triage as well that he was unable to attend his appointment on January 5, 2015, due to his furnace. Claimant also indicated transportation issues; however, this good cause reason was not applicable to Claimant's missed appointment on January 5, 2015.

Based on the above information, Claimant failed to provide a good cause reason for his non-compliance. Good cause includes credible information of an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 6. However, Claimant's testimony is not supported by any form of verification that his furnace was broken. Claimant had multiple opportunities to provide verification of his furnace being broken, such as his triage or even this administrative hearing. In fact, Claimant's Notice of Noncompliance letter dated January 14, 2015, states that it is his responsibility to report and verify reasons for your (his) actions. See Exhibit 1, p. 9. Policy states that a claim of good cause must be verified. See BEM 233A, pp. 4-6. Yet, Claimant failed to provide any verification of his good cause reason. Therefore, this ALJ questions Claimant's credibility that his furnace was broken because he provided no verification to support his claim. As such, the Department acted in accordance with Department policy when it closed Claimant's FIP benefits effective February 1, 2015, based on his first non-compliance. See BEM 233A, pp. 1-3.

### **DECISION AND ORDER**

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 Claimant's FIP benefits effective February 1, 2015, based on his first non-compliance.

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



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**Eric Feldman**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **3/10/2015**

Date Mailed: **3/10/2015**

EJF/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]