

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

IN THE MATTER OF:

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Reg. No.: 15-003878
Issue No.: 1008
Case No.: ██████████
Hearing Date: April 20, 2015
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Family Independence Specialist.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment and/or self-sufficiency 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. Claimant's Partnership.Accountability.Training.Hope (PATH) program case notes indicated the following: (i) Claimant did not come in the office during the week of December 21, 2014; (ii) Claimant did not sign-in during the week of December 28, 2014; and (iii) Claimant did not meet for her reengagement meeting by January 21, 2015. See Exhibit 1, p. 9.

3. On February 13, 2015, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on February 20, 2015. Exhibit 1, pp. 7-8.
4. On February 13, 2015, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective March 1, 2015, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 4-5. Claimant indicated she did not receive the Notice of Case Action.
5. On February 20, 2015, Claimant failed to attend her triage appointment and the Department determined no good cause for her non-compliance. See Exhibit 1, pp. 13. Claimant testified that she never received the Notice of Noncompliance until after the triage on February 24, 2015 because the notice was not mailed out until February 17, 2015. See Exhibit A, p. 1 (envelope showing Notice of Noncompliance generated on February 13, 2015 and mailed out of February 17, 2015).
6. Claimant testified that her inability to attend PATH (good cause reasons) were lack of child-care, she attends school full-time, and transportation issues (due to pregnancy and weather conditions).
7. On March 4, 2015, Claimant filed a hearing request, protesting the FIP case closure. See Exhibit 1, p. 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.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.

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 (October 2014), 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.

In the present case, Claimant's PATH program case notes indicated the following: (i) Claimant did not come in the office during the week of December 21, 2014; (ii) Claimant did not sign-in during the week of December 28, 2014; and (iii) Claimant did not meet for her reengagement meeting by January 21, 2015. See Exhibit 1, p. 9. Therefore, the Department argued that Claimant failed to meet the minimum hourly requirements to be in compliance with the PATH program. See Exhibit 1, p. 9.

In response, Claimant first argued that she never received the Notice of Noncompliance until after the triage on February 24, 2015 because the notice was not mailed out until February 17, 2015. See Exhibit A, p. 1 (envelope showing Notice of Noncompliance generated on February 13, 2015 and mailed out of February 17, 2015). Policy states that 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 233A, pp. 9-10. In this case, the Department testified that it used the available information from DHS/PATH case records to determine no good cause. See Exhibit 1, p. 1. This Administrative Law Judge (ALJ) finds that the Department properly considered a good cause determination in Claimant's absence in accordance with Department policy. See BEM 233A, pp. 9-10. Now, even though Claimant argued she never received the Notice of Noncompliance timely, this ALJ will determine if whether Claimant has a good cause reason for the non-compliance(s).

Claimant testified that her inability to attend PATH program (good cause reasons) were lack of child-care, she attends school full-time, and transportation issues (due to pregnancy and weather conditions).

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

First, as a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A, 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to participate in employment and/or self-sufficiency-related activities, etc. See BEM 233A, pp. 2-3. In this case, the evidence established that

Claimant was in non-compliance with the PATH program. For example, the evidence indicated that Claimant failed to come into the PATH office during the week of December 21, 2014. See Exhibit 1, p. 9. This is an example of Claimant's failure to participate in employment and/or self-sufficiency-related activities, etc. See BEM 233A, pp. 2-3.

Second, Claimant failed to provide a good cause reason for the non-compliance. Claimant first argued that a good cause reason was a lack of child care; however, it was discovered that Claimant's alleged lack of child care began February 1, 2015, ongoing. Claimant's non-compliances occurred in the months of December 2014 and January 2015.

Next, Claimant argued that transportation issues (due to pregnancy and weather conditions) was also a good cause reason, but she acknowledged receipt of bus tickets. Claimant testified that it took her approximately fifteen minutes to walk to the bus station and she fell several times on her way due to the weather conditions. Claimant testified that she felt this endangered her pregnancy. Moreover, Claimant testified that she contacted the Department and/or PATH program indicating that she fell and she would head home. However, this ALJ does not find any good cause for Claimant's transportation reasons. Claimant acknowledges that she was provided bus tickets, which assists her for transportation to/from the PATH program. See BEM 233A, p. 6. Also, it is understandable that there is a possible safety risk for her pregnancy due to the weather conditions (unplanned event or factor). See BEM 233A, p. 6. However, Claimant did not miss one PATH appointment and/or meeting in this instance. The evidence established that Claimant's non-compliances spanned over a period of one month. See Exhibit 1, p. 9. Claimant failed to provide any good cause reasons for her repeated inability to participate with the PATH program for the months of December 2014 and January 2015.

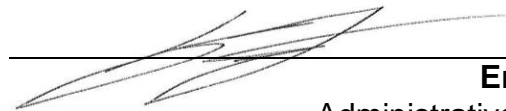
Additionally, Claimant argued that her full-time school schedule conflicts with her ability to attend the PATH program. Claimant testified that she informed the PATH program that she is attending school at her orientation and that she even provided verification of her school schedule the first and second week of December 2014. However, this ALJ does not find any good cause reason as Claimant failed to present any evidence of her school attendance.

In summary, the evidence established that Claimant's non-compliances spanned over a period of one month. See Exhibit 1, p. 9. Claimant failed to provide any good cause reasons for her consistent inability to participate with the PATH program for the months of December 2014 and January 2015. As such, this ALJ finds that the Department properly found Claimant in non-compliance with the PATH program; therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, p. 1.

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 March 1, 2015.

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



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/22/2015**

Date Mailed: **4/22/2015**

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]