

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006343
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: June 2, 2015
County: Oakland (3) Southfield

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 June 2, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits and impose a lifetime 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 was an on-going FIP recipient.
2. Claimant was required to attend orientation for the Partnership, Accountability, Training and Hope (PATH) program on January 20, 2015.
3. Claimant did not attend the orientation.
4. Claimant was previously sanctioned in the FIP on two different occasions for non-compliance with program requirements.
5. On January 22, 2015, the PATH Coordinator had a telephone conference with Claimant regarding her absence from the orientation.

6. Claimant claimed that she missed the orientation because she had a therapy session scheduled for that same morning.
7. The Department determined Claimant had not established good cause for not attending the orientation, and on January 31, 2015, the Department mailed to her a Notice of Case Action closing her FIP as of March 1, 2015, and noting it was at least the third time she had failed to participate in employment and/or self-sufficiency-related activities.
8. The Department received Claimant's hearing request on April 21, 2015.

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.

In this case, Claimant claimed that she was disabled and unable to participate in PATH. Her testimony changed repeatedly during the hearing. At one point she claimed that she attended orientation, but then she said she did not know that she had orientation scheduled for January 20. But, she admitted that she called the PATH Coordinator on January 20 to say that she would not be able to attend because she had a therapy appointment that day. When asked why she waited until the day of orientation to call and explain that she had a scheduling conflict, she could not provide an answer.

As stated in BEM 233A (10/1/14) at page 1,

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

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.

If a client does not comply with self-sufficiency activities or work, they can be penalized. As explained at page 2,

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with PATH or other employment service provider.
 - * * *
 - Provide legitimate documentation of work participation.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity.

If a client does not comply, they can avoid penalties by showing they had good cause for non-compliance. Page 4 states:

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. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

BEM 233A lists a number of examples of good cause at pages 5-6, but none of them are arguably applicable here. The examples are: working 40 hours per week; physically or mentally unfit; illness or injury; lack of reasonable accommodation for disability; lack of child care; lack of transportation; illegal activities in employment; discrimination; unplanned events; comparable work; long commute. Claimant claimed she was disabled but she did not provide any documentation of a claimed disability during or before the triage.

The critical issue here is whether Claimant established good cause for non-compliance prior to the end of the negative action period. Claimant testified that she did not participate in work related activities because she had a health issue that prevented her from working. It is possible that the Department could have found Claimant had established good cause for non-compliance, if only she had contacted her doctor and

obtained a statement excusing her from the orientation. But, since she did not provide the explanation, the Department properly found that she had not established good cause prior to the effective date of the negative action. Consequently, she was properly subject to a disqualification.

The penalties for non-compliance are found at page 1 of BEM 233A:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

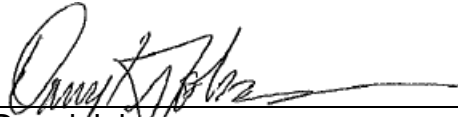
- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

Because the Claimant was subject to two sanctions previously, she was properly subject to the sanction imposed for a third episode of non-compliance in the FIP program.

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 and imposed a lifetime sanction for her third episode of non-compliance.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **6/5/2015**

DJ/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 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:

