

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007744
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: July 01, 2015
County: WAYNE-DISTRICT 41

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 July 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. A witness [REDACTED] also appeared on behalf of Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Liaison.

ISSUE

Did the Department properly close the Claimant's FIP cash assistance and impose a second sanction. For failure to participate in 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. The Claimant was an ongoing FIP recipient and was assigned to attend PATH.
2. The Department sent a Notice of Non Compliance on [REDACTED] to the Claimant at [REDACTED]. The Notice indicted a triage would be conducted on [REDACTED]. The alleged date of noncompliance was [REDACTED]. Exhibit 1
3. The Claimant did not attend the triage because she did not receive the Notice of Noncompliance. The Claimant called her caseworker the next day to advise that she did not attend the triage because she received the Notice of Non Compliance late.

4. The Department issued a Notice of Case Action on [REDACTED] which closed the Claimant's case effective [REDACTED] and imposed a six month sanction for failure to meet PATH participation requirements. Exhibit 2
5. The Claimant requested a timely hearing on [REDACTED] protesting the Departments actions.

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 Partnership Accountability Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PATH case managers use the One-Stop Management Information System (OSMIS) to record the clients' assigned activities and participation. BEM 230A, (July 1, 2015) p. 1.

In this case, the Claimant credibly testified that she did not receive the Notice of Non Compliance until the day of the hearing and called her caseworker the next day to seek to reschedule the triage. Her caseworker said she would only reschedule the triage if the Claimant could present the postmarked envelope that Notice came to establish the receipt date. The Claimant did not have the envelope and thus the triage was not rescheduled (Exhibit 1). The Claimant went to the Post Office to attempt to trace the delivery date but the Post Office could not assist her. At the time of the triage, the Claimant was working and attending PATH.

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.

A Work Eligible Individual (WEI) ... 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:

- 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. BEM 233A (May 1, 2015) 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. Locally coordinate a process to notify PATH case manager of triage day schedule, including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period.

Determine good cause 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 233A P. 9-10

In this case, the Department, after conducting a triage determined based upon the information available that the Claimant did not have good cause for failing to comply with PATH program requirements.

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 on the noncooperation screen as well as in case comments.

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 p. 4.

The Department did not mail the Notices to the correct apartment number, which was 4F not H, and the Claimant also did not get the Notice of Case Action because it was sent to her old address. In addition the Claimant's testimony that she did not receive the Notice of Noncompliance until the day of the triage (nor was her testimony rebutted about calling her case worker the next day) is deemed credible.

The Department said the noncompliance was due to the fact the Claimant was reassigned to Path in February 2015 and did not attend. The Department did not produce any notice indicating that the Claimant had been reassigned to Path. The Claimant said she was working and attending Work First at that time. The Department could also not say for certain what requirements of the PATH program notes the Claimant had not complied with. Based upon the evidence the Department did not meet its burden of proof to demonstrate what the noncompliance was.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant FIP case. .

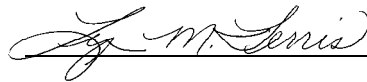
DECISION AND ORDER

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. The Department shall reinstate the Claimant's FIP case retroactive to the date of closure. The Department shall remove the second sanction it imposed from its case records.
2. The Department shall issue a FIP supplement to the Claimant for an FIP benefits she is otherwise eligible to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/30/2015**

Date Mailed: **7/30/2015**

LMF / hw

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:

