

**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.: 15-009236
Issue No.: 1008; 3000
Case No.: ██████████
Hearing Date: July 08, 2015
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, PATH Coordinator/Hearing Facilitator, and ██████████ ██████████, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and sanction the case for a six-month minimum case closure?

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 February 23, 2015, the Department sent Claimant a PATH Appointment Notice, requiring her to attend a PATH orientation on March 2, 2015 (Exhibit D).
3. Claimant did not participate in the PATH orientation.
4. On March 14, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage on March 20, 2015, and (ii) a Notice of Case Action notifying her that her

FIP case was closing effective April 1, 2015, for a six-month minimum because she had failed to comply with her employment-related activities (Exhibits E and J).

5. Claimant did not participate in the March 20, 2015, triage.
6. The Department held the triage and concluded, based on information available to it, that Claimant did not have good cause for her noncompliance.
7. On June 1, 2015, Claimant requested a hearing disputing the Department's actions concerning her FIP and Food Assistance Program (FAP) cases.

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.

Claimant requested a hearing concerning her FIP and FAP cases. At the hearing, she testified that the Department had not taken any negative actions concerning her FAP case, and she did not wish to pursue a hearing concerning FAP. Based on Claimant's testimony, her request for hearing concerning FAP is dismissed. The hearing proceeded to address the merits of the FIP case.

The March 14, 2015, Notice of Case Action notified Claimant that her FIP case was closing because she had failed to comply with employment-related activities. As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2015), p. 1; BEM 233A (May 2015), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to appear and participate with PATH. BEM 233A, p. 2.

In this case, the Department testified that the noncompliance at issue is Claimant's failure to attend the March 2, 2015, PATH appointment. Claimant admitted that she did not attend the appointment. Because Claimant did not participate in PATH, she was in noncompliance with her employment activities.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. A noncompliance is excused if a client can establish good cause for the noncompliance. BEM 233A, p. 4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4.

In this case, the Department scheduled a triage on March 20, 2015 (Exhibit E). Claimant did not attend the triage, and the Department concluded that, based on information available to it, Claimant did not have good cause for her noncompliance (Exhibit B). At the hearing, Claimant contended that she was unable to attend the triage because she had had medical issues with her pregnancy just days before the triage date and was physically unable to participate in the hearing. She alleged that she attempted to contact her worker prior to March 20, 2015, to reschedule the triage but could not reach her. Claimant was given the opportunity to present documentation of her March 15, 2015, emergency room attendance to support her testimony, and she provided a discharge summary from the incident (Exhibit 1). There is also evidence from the Department of a phone conversation between the worker and Claimant prior to March 20, 2015, where Claimant raised her medical issues although it is not clear from the notes of the conversation that Claimant requested to reschedule the triage (Exhibit K). However, the notes show that Claimant did discuss some of the barriers she raised at the hearing with her worker prior to the triage. Therefore, it is found that Claimant established good cause for her failure to attend the triage. Accordingly, her explanation for failing to attend the PATH appointment are considered.

At the hearing, Claimant testified that she had three reasons for failing to attend the PATH program on March 2, 2015: (i) she did not have day care, (ii) she did not have transportation, and (iii) the PATH appointment conflicted with her child's schedule. Claimant's concerns regarding the scheduling conflict with her child's school schedule also presented a child care issue.

Good cause for noncompliance includes a lack of day care and lack of transportation. BEM 233A, p. 5. To establish good cause based on lack of day care, there must be evidence that the client requested child care services from the Department prior to case closure for noncompliance and child care is needed for an eligible child but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5. To establish good cause based on lack of transportation, there must be evidence that the client requested transportation from the Department, PATH or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A, p. 6.

In this case, the Department testified that it was not made aware of Claimant's child care issues until the worker spoke to Claimant by telephone on March 18, 2015, after the March 14, 2015, Notice of Case Action notifying her of the closure of her FIP case was

sent. In response, Claimant testified that she tried calling her worker, and her worker's supervisor, by phone several times prior to the March 2, 2015, PATH appointment and was finally able to reach her worker on March 2, 2015, at which time she advised the Department that she could not attend the PATH appointment because she did not have child care or transportation. According to Claimant, at that time, she requested a child care and development (CDC) application by mail from her worker, because she could not access her online Department case. The worker at the hearing testified that she did not recall such a phone conversation. She added that it was her practice to keep notes of telephone conversations and her notes did not reflect a March 2, 2015, phone conversation with Claimant, only the March 18, 2015 conversation. Based on the evidence presented, Claimant has failed to establish that she requested child care and transportation prior to being notified of her case closure. Therefore, Claimant did not establish good cause for her noncompliance. Accordingly, the Department acted in accordance with Department policy when it closed Claimant's FIP case.

The Department presented evidence that Claimant had a first incident of FIP-related noncompliance in April 2011 resulting in the closure of her FIP case from June 1, 2011, to August 31, 2011 (Exhibit F). Because this was Claimant's second incidence of noncompliance, the Department properly applied a six-month sanction to Claimant's case, prohibiting her from seeking FIP benefits for a minimum three-month period. BEM 233A, p. 8.

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 case for a minimum six month period.

DECISION AND ORDER

Claimant's hearing request concerning FAP is DISMISSED.

The Department's FIP decision is **AFFIRMED**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/17/2015**

Date Mailed: **7/17/2015**

ACE / tlf

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

