

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-010199
Issue No.: 1008
Case No.: ██████████
Hearing Date: July 20, 2015
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 20, 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; ██████████, Family Independence Specialist; ██████████, Path Case Manager; and ██████████, Path Coordinator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to a 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. As a condition of receiving FIP benefits, Claimant was required to participate in community service activities for at least 20 hours per week.
3. During the weeks of: April 26, 2015, to May 2, 2015; May 3, 2015, to May 9, 2015; May 10, 2015, to May 16, 2015; and May 17, 2015, to May 23, 2015, Claimant did not participate in her required 20 weekly hours of community service. (Exhibit A)

4. On May 29, 2015, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on June 5, 2015, to discuss whether good cause existed for her noncompliance. (Exhibit B)
5. On May 29, 2015, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP effective July 1, 2015, because for a third time, she or a group member failed to participate in employment and/or self-sufficiency-related activities without good cause. The Notice informed Claimant that the group is no longer eligible for FIP benefits. (Exhibit D)
6. A triage was conducted on June 5, 2015, which Claimant attended. At the conclusion of the triage, the Department determined that Claimant did not have good cause for her noncompliance. (Exhibit C)
7. On June 12, 2015, Claimant requested a hearing disputing the closure of her FIP case.

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.

As a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (May 2015), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider; failing or refusing to appear for a scheduled appointment or meeting related to assigned activities; failing to provide legitimate documentation of work participation; failing to participate in a required activity; and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6. BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized and in processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A, pp. 1,9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (April 2015). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the Department testified that as a condition of receiving FIP benefits, Claimant was required to complete and participate in 20 hours of community service per week. The Department testified that Claimant could fulfill the 20 hour requirement by attending either three or four days per week. The Department stated that: for the week of April 26, 2015, to May 2, 2015, Claimant participated in 8 hours of community service; for the week of May 3, 2015, to May 9, 2015, Claimant participated in 0 hours of community service; for the week of May 10, 2015, to May 16, 2015, Claimant participated in 8 hours of community service; and for the week of May 17, 2015, to May 23, 2015, Claimant participated in 0 hours of community service. The Department provided attendance sheets in support of its testimony. (Exhibit A). The Department stated that because Claimant did not complete her required 20 hours per week of community service, it sent her a Notice of Noncompliance informing her that she was required to attend a triage meeting on June 5, 2015, to discuss whether she had good cause for her failure to participate in required activities.

The Department stated that a triage was held on June 5, 2015, which Claimant attended. The Department stated that although Claimant provided some documentation to establish that she had some medical appointments due to her pregnancy and that Claimant's child was treated for a dog bite, the documentation presented did not cover the entire period in which Claimant failed to participate in community service. The Department testified that Claimant also did not provide documentation to show that she was required to be in home with her child for constant care or that her doctor ordered her to be home due to her pregnancy health issues. The Department determined that Claimant did not establish that she had good cause for her failure to participate in the 20 hours per week of required community service. (Exhibit C).

The Department initiated the closure of Claimant's FIP case effective July 1, 2015, imposing a lifetime sanction for the third occurrence of noncompliance without good cause. (Exhibit D). The Department presented MIS case notes, a non-cooperation summary and non-cooperation details documents to establish that Claimant had two previous non-cooperation sanctions (November 23, 2011, and January 7, 2014) imposed on her FIP case for failure to participate in a required activity without good cause. (Exhibit E).

At the hearing, Claimant testified that she was given a schedule by the community service program which instructed her to attend two days per week from 10:00 a.m. to 6:00 p.m. Claimant initially testified that she attended 8 hours per week and later stated she attended 16 hours per week. The attendance sheets presented at the hearing do not support Claimant's testimony and Claimant confirmed that she was required to participate in 20 hours of community service per week. Claimant stated that she did not complete the required 20 weekly hours of community service for the periods at issue because on April 30, 2015, her son was bit by a dog and she had to stay home and care for him. Claimant also testified that during this time she was pregnant and had to go to several doctor appointments. Claimant provided copies of some medical documentation and appointment confirmations in support of her testimony. (Exhibit 1).

A thorough review of the documentation presented by Claimant establishes that during the period at issue, Claimant or her child had been seen by a doctor either in an office or at a hospital on: April 30, 2015; May 2, 2015; May 7, 2015; May 8, 2015; May 12, 2015; May 13, 2015; and May 15, 2015. (Exhibit 1). Claimant did not provide any documentation to show that she or her child had medical appointments for the week of May 17, 2015, to May 23, 2015, during which she participated in 0 hours of community service. Additionally, Claimant failed to establish that she provided the Department with documentation verifying that she was instructed by a physician to provide constant in home care to her child during the period at issue or that she could not participate in community service due to her pregnancy.

Because Claimant did not establish that prior to the triage and negative action date, she provided the Department with a sufficient good cause explanation for her failure to attend and participate in 20 weekly hours of community service for the entire period between April 26, 2015, and May 23, 2015, 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 when it determined that Claimant did not have good cause for her noncompliance, closed Claimant's FIP case and imposed a lifetime sanction.

DECISION AND ORDER

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



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/29/2015**

Date Mailed: **7/29/2015**

ZB / 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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]