

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-012516
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: August 24, 2015
County: WAYNE-DISTRICT 31

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 August 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], FIS.

ISSUE

Did the Department properly close the Claimant's FIP cash assistance case and impose a three month sanction for 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 a FIP cash assistance recipient and was assigned to attend the PATH program. The Claimant became employed but lost her job. Exhibit A
2. The Claimant was fired after she was late due to the Path program arranged transportation being 2 hours late in picking her up to take her to her employment. The Claimant also failed to call in when hospitalized.
3. The Department issued a Notice of Noncompliance on [REDACTED], scheduling a triage on [REDACTED] to determine the reasons for the loss of employment and whether the Claimant had good cause. Exhibit B

4. After the triage, the Department determined that the Claimant had no good cause and issued a Notice of Case Action on [REDACTED], closing the Claimant's FIP cash assistance and imposed a 3 month sanction. Exhibit C

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, the Department found no good cause for the Claimant's being fired from her job. The Claimant credibly testified that the transportation service provided for her by the PATH program was two hours late, causing the Claimant to be fired. The Claimant credibly testified that she was at the hospital for the first absence (which was unavoidable). This testimony was not rebutted by the Department.

The Department is authorized to impose sanctions and close a FIP case after a triage if good cause is not found and if the Claimant is a FAP recipient who is disqualified from receiving FIP due to failure to comply with PATH requirements without good cause, the Department must also remove the Claimant from the FAP group thereby reducing the FAP group benefits. BEM 233A (May 1, 2014) p. 8; and BEM 233B (July 1, 2013) p. 2. See also BEM 230B (October 1, 2013) p.4. The Department did not remove the Claimant from her FAP group or change the benefit amount so there was no change in the FAP benefits due to noncompliance with PATH participation and FIP closure.

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 best 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.

Two reasons for good cause that were not properly considered at the triage based upon the Claimant's testimony provided at the hearing include, No Transportation, and Unplanned Factor or Event.

No Transportation

The client requested transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A p. 6.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

In this case, the Path program utilized an unreliable transportation service, which on the day of her firing picked the Claimant up 2 hours late. Apparently, the Claimant was told by the Path program at the triage that she should have arranged for other means to get to her employment. The Claimant's employer was in [REDACTED] Michigan (quite some distance from her home in Detroit). Based upon these facts, it is determined that the Claimant had good cause for losing her job, which was due to her being late due to a PATH arranged transportation service which was unreliable. The Claimant's testimony regarding the morning in question was credible and unrebutted by the Department, and no witness from the PATH program who was present at the triage attended the hearing. Under these circumstances, it is determined that the Claimant had good cause for the termination of her employment due to two causes or factors which both were unplanned factors or events.

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 did not

act in accordance with Department policy when it closed the Claimant's FIP case for failure to participate, as required, in employment related activities without good cause.

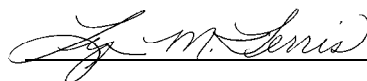
DECISION AND ORDER

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 as of the date of closure.
2. The Department shall remove from its records the first sanction it imposed with respect to the Claimant losing her employment.
3. The Department shall issue a supplement of FIP benefits, if any, the Claimant is otherwise entitled 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: **9/1/2015**

Date Mailed: **9/1/2015**

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:

