

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013125
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: September 2, 2015
County: Newaygo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 September 2, 2015, from Lansing, Michigan. Claimant and her spouse ([REDACTED]) personally appeared and provided testimony. [REDACTED] (PATH Coordinator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits and reduce Claimant's Food Assistance Program (FAP) monthly allotment due to failure to comply with the Partnership Accountability Training Hope (PATH) program requirements?

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 active for FAP benefits.
2. Claimant was receiving FIP assistance for her granddaughter and her spouse when she submitted an online application seeking FIP assistance for herself on June 15, 2015.
3. On June 16, 2015, the Department mailed Claimant's husband a PATH Appointment Notice (DHS-4785) which scheduled him to attend a PATH appointment on June 29, 2015 at 10:30am. (Exhibit 1, p. 9)

4. On June 16, 2015, the Department mailed Claimant a PATH Appointment Notice (DHS-4785) which scheduled her to attend a PATH appointment on June 29, 2015 at 10:30am. (Exhibit 1, p. 10)
5. On June 29, 2015, Claimant and her husband both appeared for the PATH appointment at 10:00am. They advised Michigan Works! that Claimant's husband was unable to attend PATH orientation or related activities because he is disabled. (Exhibit 1, p. 17). Claimant's spouse provided a February 24, 2015 letter from an attorney that indicated Claimant sought legal representation for a Social Security Disability claim and a blank application for a disability parking placard. (Exhibit 1, pp. 19-20)
6. Claimant and her husband both left Michigan Works! before completing the PATH orientation. (Exhibit 1, p. 21)
7. Michigan Works! determined that because Claimant's husband failed to provide medical documentation to show that he cannot work or that he did not have restrictions, as they refused to pursue a medical deferral. (Exhibit 1, p. 18)
8. On July 6, 2015, the Department mailed Claimant's husband a Notice of Noncompliance (DHS-2444) because he allegedly failed to participate as required in employment and/or self-sufficiency related activities. The Triage appointment was scheduled for July 15, 2015 at 9:00am. (Exhibit 1, p. 13-14)
9. On July 6, 2015, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) because she allegedly failed to participate as required in employment and/or self-sufficiency related activities. The Triage appointment was scheduled for July 15, 2015 at 9:00am. (Exhibit 1, p. 13-14)
10. On July 15, 2015, neither Claimant nor her husband attended Triage and the Department found Claimant did not show good cause. (Exhibit 1, pp. 11-12)
11. The Department mailed Claimant a Notice of Case Action (DHS-1605) on July 6, 2015 which indicated that Claimant's FIP case would close effective August 1, 2015 and that the FAP case would decrease to \$ [REDACTED] effective August 1, 2015 due to the imposition of a 3 month penalty for "noncompliance with employment and/or self-sufficiency-related activities." (Exhibit 1, pp. 4-8)
12. The Department alleges that this is Claimant (and Claimant's husband's) first noncompliance with employment and/or self-sufficiency-related activities.
13. On July 13, 2015, the Department received Claimant's request for hearing challenging the FIP closure and FAP reduction.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) 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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. BEM 230A (July, 2015), p. 1.

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. BEM 230A, p. 1.

WEIs not referred to PATH will participate in other activities to overcome barriers so they may eventually be referred to PATH or other employment service provider. Michigan Department of Health & Human Services (MDHHS) must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). BEM 230A, p. 1.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. For more about penalties; see BEM 233A. See BEM 230B and BEM 233B for FAP employment requirements. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. An applicant, recipient or member add is considered noncompliant without good cause if he or she falls within a list contained on

BEM 233A, page 2. This list includes failing to appear and participate with PATH or other employment service provider. BEM 233A, pp. 2-4.

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. 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. BEM 233A, p. 4.

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. Good cause may be shown if the client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information.¹ BEM 233A.

Section 504 of the American Disability Act defines a disability as a physical or mental impairment that substantially limits one or more major life activities; or a history of such an impairment; or being regarded as having such an impairment. Examples of major life activities include: thinking, learning, taking care of oneself, maintaining social relationships, sleeping, communicating, etc. BEM 230A, p. 2.

A number of FIP clients have disabilities or live with a spouse or child(ren) with disabilities that may need accommodations to participate in assigned activities. The needs of persons with disabilities are highly individual and must be considered on a case-by-case basis. MDHHS must make reasonable efforts to ensure that persons with disability-related needs or limitations will have an effective and meaningful opportunity to benefit from MDHHS programs and services to the same extent as persons without disabilities. Efforts to accommodate persons with disabilities may include modifications to program requirements, or extra help, as explained below. Failure to recognize and accommodate disabilities undermines efforts to assist families in achieving self-sufficiency. BEM 230A, p. 2-3.

When a client requests reasonable accommodation in order to participate, MDHHS and the employment service providers will consider the need for applying the above requirements. BEM 230A, p. 2-3.

A disability as defined above that requires reasonable accommodation must be verified by an appropriate source, such as a doctor, psychologist, therapist, educator, etc. A client may disclose a disability at any time. Failure to disclose at an earlier time does not prevent the client from claiming a disability or requesting an accommodation in the future. BEM 230A, p. 3.

¹This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A.

Here, the Department representative who attended the hearing was not the caseworker assigned to Claimant's spouse and had no personal knowledge of the case. According to the Department representative, the caseworker was not available for the hearing due to an extended medical leave. In any event, the Department alleges that the FIP closure and FAP reduction were both proper because Claimant and her husband both were noncompliant with PATH on June 29, 2015 when they left Michigan Works! before the orientation session concluded. Claimant's husband, on the other hand, contends that he provided his caseworker (who was not present for the hearing) with documentation to support his claim that he is disabled and requires a deferral from PATH activities. Claimant's husband stated that an employee at Michigan Works! advised them that he was "100% disabled" and was not required to participate in PATH. It should be noted; however, that Claimant did not independently assert that she was disabled or was otherwise unable to participate in PATH. Neither Claimant nor her husband provided any documentation at the hearing to support the claims of disability.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Although the testimony of the Department caseworker would have been helpful, neither Claimant nor her husband provided any documentation at the hearing to support their claims of disability. This Administrative Law Judge finds that if Claimant and her husband were physically capable of presenting to the PATH appointment, the likelihood either of them were unable to participate is low. A disability as defined above that requires reasonable accommodation must be verified by an appropriate source, such as a doctor, psychologist, therapist, educator, etc. BEM 230A, p. 3. Neither Claimant nor her husband provided any documentation in the record to show the presence of a disability that excuses them from PATH or otherwise requires accommodation. The testimony that the Department caseworker has all of the disability documentation is not persuasive. Good cause has not been shown for failure to complete PATH on the date in question.

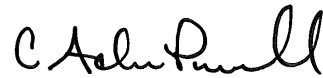
Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds both Claimant and her husband were noncompliant with the PATH program and have failed to show good cause for failing to complete attendance at PATH orientation without good cause. As a result, the Department properly closed Claimant's FIP case and properly reduced FAP for non-compliance.

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.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**. The Department properly closed Claimant's FIP case and properly reduced FAP for noncompliance with PATH requirements and the 3 (three) month sanctions are proper.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: **9/9/2015**

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

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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:

