

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

IN THE MATTER OF:



Reg. No.: 15-013752
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: September 23, 2015
County: WAYNE-DISTRICT 17

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 September 23, 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], Access Case Manager and [REDACTED] FIS.

ISSUE

Did the Department properly close the Claimant's FIP Case and impose a three month sanction for noncompliance with PATH requirements 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. The Claimant was assigned to the PATH program and after a reengagement was assigned to attend community service at [REDACTED]. The Claimant attended the orientation but did not return to the program after orientation. Exhibits 1, 3 and 5
2. The Department sent a Notice of Non Compliance and scheduled a triage for [REDACTED]. The Claimant attended the triage. The Department, after conducting the triage, determined that the Claimant did not demonstrate good cause for failure to attend her community service assignment. Exhibit 3

3. The Department issued a Notice of Case Action on [REDACTED], closing the Claimant's FIP case effective [REDACTED] and imposed a 3 month first sanction for failure to comply with the PATH requirements. Exhibit 2
4. The Claimant requested a timely hearing on [REDACTED], protesting her FIP case closure.

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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Department, after a triage, closed the Claimant FIP cash assistance case imposing a 3 month disqualification for failure to comply with work related requirements regarding reporting to the community service program after orientation without good cause. The Claimant was required to complete 20 hours of participation in an assigned community services program.

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 Claimant agreed that she did not attend the community service. The Claimant also signed a Community Service Guidelines agreement that she was advised of the rules she was required to follow, which included "calling the work site and your case manager when unable to attend community service". The Claimant said she was in the hospital, however, she did not present hospital records or a doctor's note confirming her illness. In addition, the Claimant never called either her caseworker or PATH Manager to advise what was going on. At the hearing, the Claimant said she did not feel that the program

for community service would not provide her a job. However, her case manager testified credibly that most participants in the program got employment from the program. She also indicated that Claimant was assigned to this program as she had been unsuccessful obtaining employment even after being given an extension.

All along the way, the Claimant's PATH manager credibly testified that she afforded the Claimant several re-engagements, in an effort to assist the Claimant in finding a job. Exhibit 5 and 1. At a point after [REDACTED], the Claimant stopped communicating with her manager and the manager determined that the Claimant was not participating; leaving the manager no option but to request a triage for noncompliance. Exhibit 1

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, after conducting a triage, the Department determined based upon the best information available that the Claimant did not have good cause for failing to comply with PATH program requirements to attend her assigned community service.

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.

After a review of the sworn testimony presented and the written evidence provided, it is determined that the Claimant did not demonstrate good cause at the triage or at the hearing. The Claimant, at no time, turned in records of her compliance with the 20 hours of community service participation, provided no proof she was in the hospital and thus did not provide reasons to establish good cause. In addition, the Claimant never communicated again with the PATH program or her case manager after the [REDACTED], [REDACTED] community service orientation. Therefore, it is also determined that the Claimant failed to participate after that date as the Notice of Noncompliance was not issued until [REDACTED]. Exhibits 3 and 4.

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 the Claimant FIP case and imposed a first sanction, closing the Claimant's FIP case for three months for failure to participate in work related activities without good cause.

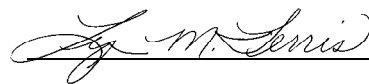
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it closed the Claimant's FIP case and imposed a first sanction, closing the Claimant's FIP case for three months for failure to participate in work related activities without good cause.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



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

Date Signed: **9/25/2015**

Date Mailed: **9/25/2015**

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:

