

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015506
Issue No.: 1008, 3001
Agency Case No.: [REDACTED]
Hearing Date: October 22, 2015
County: Wayne (18) Taylor

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 October 22, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] the Petitioner. A witness, [REDACTED], the Petitioner's spouse, also appeared. [REDACTED] appeared as an interpreter for the Petitioner and the Petitioner's witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator; and [REDACTED], Path Coordinator - Taylor District.

ISSUE

Did the Department properly close and impose a three-month sanction on the Petitioner's Family Independence Program (FIP) cash assistance case. ?

Did the Department properly reduce the Petitioner's Food Assistance Program (FAP) benefits for non participation with the Partnership.Accountability.Training.Hope. (PATH) Program 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 Petitioner was an ongoing recipient of FIP cash assistance and FAP benefits.
2. After a Disability Determination Service (DDS) review and denial of the Petitioner's request for a deferral from attending the PATH program due to a

mental illness disability, the Petitioner was assigned to attend the PATH Program and orientation on July 21, 2015. Exhibits A and B.

3. The Petitioner appeared at the PATH Orientation but did not stay.
4. The Department sent the Petitioner a Notice of Noncompliance dated August 5, 2015, finding the Petitioner in noncompliance with PATH requirements and scheduled a triage on August 13, 2015, which the Petitioner attended.
5. At the triage, the Petitioner and his spouse contended that the Petitioner could not attend PATH due to mental illness and that his wife could not attend with him as she had to care for her children. No new medical evidence was presented.
6. At the triage the Department found the Petitioner did not demonstrate good cause and imposed a first sanction, closing the Petitioner's FIP cash assistance case for 3 months. Exhibit E.
7. The Department issued a Notice of Case Action dated August 5, 2015, closing the Petitioner's FIP cash assistance case and removing the Petitioner from his FAP group. Exhibit E.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department closed the Petitioner's FIP case and removed the Petitioner from his FAP group, thereby, reducing his FAP benefits due to non participation with the PATH Program without good cause. At application, the Petitioner alleged that he could not attend PATH due to a mental illness disability. The Department in accordance with Department policy sent the Petitioner's medical packet

to the DDS for review. The DDS found the Petitioner work ready, and the Department assigned the Petitioner to attend PATH Orientation on July 21, 2015. Exhibit B. Department policy found in BEM 230A requires that the Department do the following after a DDS decision:

DDS DECISION

Upon the receipt of the DDS decision, review the determination and information provided by DDS. Establish the accommodations the recipient needs to participate in PATH or to complete self-sufficiency-related activities. Follow the procedure for accommodating disabilities; see Reasonable Accommodation in this item.

Work Ready

Recipients determined by DDS to be work ready are able to fully engage in PATH without any accommodation. To engage the recipient in PATH, end the Disability Details record in Bridges. BEM 230A (October 1, 2015), p.13

The Petitioner reported for PATH orientation and then left. The Department then sent the Petitioner a Notice of Non Compliance scheduling the Petitioner for a triage due to his failure to attend the Path Orientation. The Department held a triage which the Petitioner attended on August 13, 2015. At the triage the Petitioner again asserted that he could not attend Path due to his mental illness. No new medical evidence was presented and thus the Department found no good cause for the Petitioner's failure to attend Path orientation. As no new evidence was presented at the triage by the Petitioner, the Department properly found no good cause for the Petitioner's failure to attend Path Orientation. Clients who request a deferral on a new basis must do the following:

When to Request a New DDS Decision

After a DDS decision and/or SSA medical determination has been denied and the client **states their existing condition has worsened or states they have a new condition resulting in disability greater than 90 days**, verify the new information using a DHS-54-A or a DHS-54E. If the returned verification confirms the above, see BAM 815. (Emphasis supplied).

The specialist must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency.

When an individual presents a doctor's note after the DDS decision but does **not** have new medical evidence or a new

condition, send the DHS-518, Assessment For FIP Participation, to the doctor and request supporting medical evidence.

If new medical evidence is not provided, do not send the case back to the DDS. The previous DDS decision stands. BEM 230A, p.15

NON COMPLIANCE

When a client determined by DDS to be work ready with limitations becomes noncompliant with PATH or his/her FSSP assigned activities, follow instructions outlined in BEM 233A. BEM 230A, p. 15

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider. BEM 233A (May 1, 2015) p.2

In this case based upon the evidence presented and the testimony of the parties, the Department properly found no good cause as no new medical evidence was presented nor was any new condition alleged which would have required the Department to verify the Petitioner's request for deferral and initiate a new DDS review.

As the Petitioner was an ongoing recipient of FIP benefits, the Department properly closed the Petitioner's FIP case and imposed a first sanction closing FIP for three months. BEM 233A. When a Petitioner's FIP case is closed due to failure to participate in Path, the Department must remove Petitioner for the FAP group. BEM 233B provides:

When To Disqualify

Disqualify a FAP group member for noncompliance when all the following exist:

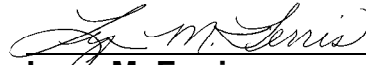
- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.

- The client is subject to a penalty on the FIP/RCA program.
- The client is **not** deferred from FAP work requirements; see DEFERRALS in BEM 230B.
- The client did not have good cause for the noncompliance. BEM 233B (July 1, 2013) p. 3.

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 and sanctioned the Petitioner's FIP case and removed Petitioner and removed the Petitioner from his FAP group for noncompliance without good cause with PATH participation requirements. .

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 Mailed: **10/27/2015**

LMF/jaf

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:

