

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

IN THE MATTER OF:

████████████████████
████████████████
████████████████████

Reg. No.: 15-015858
Issue No.: 1008
Case No.: ██████████
Hearing Date: October 12, 2015
County: Wayne-District 17

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 three way telephone hearing was held on October 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her boyfriend, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, JET Case Manager and ██████████, Case Manager PATH Program.

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. Claimant was deferred from participating in the PATH program due to caring for her newborn child.
3. Claimant's boyfriend, ██████████, a member of the FIP group was required to participate in approved job search activities for 35 hours weekly. ██████████ was required to submit activity logs detailing his weekly participation.

4. On June 25, 2015, ██████████ reported that he was employed at ██████████ ██████████, that he is paid weekly and that his first day on the job was May 21, 2015. (Exhibit B, p. 1)
5. On June 26, 2015, ██████████ made a collateral contact with ██████████ employer who indicated that ██████████ has worked for him for years and that he works every other day. A few hours later in the day, the employer recanted and stated to ██████████ that ██████████ never worked at ██████████. (Exhibit B, p.2; Exhibit F)
6. On July 10, 2015, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on July 16, 2015, to discuss whether good cause existed for ██████████ alleged noncompliance. (Exhibit D)
7. On July 10, 2015, the Department sent Claimant a Notice of Case Action informing her that the Department intended to close her FIP case effective August 1, 2015, because 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 FIP case will be closed for at least three months. (Exhibit E)
8. A triage was conducted on July 16, 2015, which Claimant attended. At the conclusion of the triage, the Department determined that ██████████ did not have good cause for his noncompliance.
9. On July 23, 2015, Claimant requested a hearing disputing the Department's actions with respect to 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. In processing a FIP closure due to an employment penalty, 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, with particular attention to possible disabilities and unmet needs for accommodation. 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, [REDACTED] was required to participate in 35 weekly hours of approved PATH activities, such as job search. [REDACTED] was instructed to submit weekly activity logs detailing his 35 hour weekly participation in PATH activities. [REDACTED] testified that for several weeks, [REDACTED] did not meet his 35 hour weekly requirements, as evidenced by the activity logs submitted and presented for review at the hearing. A review of the job search logs shows that [REDACTED] completed nine or ten hours weekly. (Exhibit A).

The Department stated that it was informed by [REDACTED] that he was employed at [REDACTED]. (Exhibit B). [REDACTED] testified that [REDACTED] was instructed to submit proof of his employment or income statements so that his employment could be verified and counted towards his weekly participation hours; however, [REDACTED] failed to submit such documentation, as he stated he was paid in cash. (Exhibit F). [REDACTED] further stated that she made a collateral contact with [REDACTED] employer, who initially confirmed the employment, but later recanted and stated that [REDACTED]

was never employed. Thus, because there was no supporting documentation to verify Claimant's employment and because ██████████ did not complete his required 35 hours per week of PATH activities, the Department sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on to discuss whether ██████████ had good cause for his failure to participate in required activities.

The Department stated that a triage was held on July 16, 2015, which Claimant and ██████████ attended. At the conclusion of the triage, the Department determined that ██████████ did not have good cause for his failure to participate in 35 hours of weekly activities or his failure to submit proof of his employment. The Department initiated the closure of Claimant's FIP case effective August 1, 2015, imposing a three month sanction for the first occurrence of noncompliance without good cause. (Exhibit E).

At the hearing, ██████████ confirmed that he was aware of the 35 hour weekly PATH participation requirements and stated that he was completing the hours with job search and with his employment. ██████████ confirmed that the activity logs reviewed at the hearing were the logs that he submitted to the PATH program and stated that there were additional logs that he submitted for different weeks that were not presented for review at the hearing. ██████████ testified that his employer would not sign his paperwork but did not elaborate or offer any detailed information concerning his employment or how his employment ended other than to state that he stopped working after ██████████ contacted his employer. ██████████ did not explain why his weekly logs reflected only nine or ten hours of participation or how he was completing the weekly 35 hour requirement, as he stated he was working for only one day per week, seven hours per day. ██████████ confirmed that he did not provide the Department with any written verification of his employment such as income slips or other acceptable verifications.

Because Claimant and ██████████ did not establish that prior to the triage and negative action date, they provided the Department with a sufficient good cause explanation for ██████████ failure to participate in 35 weekly hours of approved activity and because there was insufficient employment verification provided, 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 ██████████ was noncompliant with work related activities without good cause, closed Claimant's FIP case and imposed a three month 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: **10/20/2015**

Date Mailed: **10/20/2015**

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]