

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

IN THE MATTER OF:

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████████████████████
██████████

Reg. No.: 15-000310
Issue No.: 1008; 2000; 3000
Case No.: ██████████
Hearing Date: March 18, 2015
County: Wayne-District 18 (Taylor)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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. After due notice, an in-person hearing was held on March 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████; Claimant's authorized hearing representative (AHR) and a member of Claimant's benefit group. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Specialist; ██████████, PATH Coordinator; and ██████████, Hearing Facilitator/Eligibility Specialist.

ISSUE

Did the Department properly close and sanction Claimant's Family Independence Program (FIP) case for failure to comply with employment-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. Claimant was an ongoing recipient of FIP benefits.
2. Claimant's FIP group consisted of Claimant, the AHR, and their minor child in common.
3. The AHR was deferred from participation from the PATH program because of a disability.
4. On December 4, 2014, the Department sent Claimant a PATH Appointment Notice requiring her to attend the PATH program on December 15, 2014.

5. Claimant called her PATH worker and her Department worker to state that she was having child care issues and the Department extended her date to attend the PATH program to December 22, 2014.
6. Claimant did not attend the PATH program on either December 15, 2014 or December 22, 2014.
7. On December 23, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with the FIP-related work participation program and scheduling a triage on January 2, 2015, and (ii) a Notice of Case Action notifying her of the closure of her FIP case effective February 1, 2015, for a six-month minimum, based on her noncompliance with employment-related activities without good cause.
8. Claimant attended the triage.
9. The Department concluded that Claimant did not have good cause for her noncompliance and closed her FIP case.
10. On January 2, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her FIP case and her Food Assistance Program (FAP) and Medical Assistance (MA) cases.

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 to .3131.

Claimant filed a hearing request on January 2, 2015 concerning her FIP, FAP, and MA cases. At the hearing, the AHR testified that the MA and FAP issues had been resolved to his and Claimant's satisfaction and they did not wish to pursue a hearing concerning those matters. Based on the AHR's withdrawal of the hearing request concerning FAP and MA, the FAP and MA matters are dismissed. The hearing proceeded to address Claimant's FIP case closure.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM

230A (October 2014), p. 1; BEM 233A (October 2014), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to appear and participate in PATH. BEM 233A, p. 2. In this case, the Department alleged that Claimant was in noncompliance with her FIP obligations because she did not attend the PATH orientation on either the originally scheduled December 15, 2014 appointment date or the extended orientation date of December 22, 2014. Claimant admitted that she did not attend the PATH appointment on either date. Therefore, the Department established that there was a noncompliance.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Claimant attended the triage, but the Department concluded that she did not establish good cause.

At the hearing, the Department testified that Claimant alleged that she could not attend the PATH program because she did not have day care for her ■-year-old child. The Department testified that it had advised Claimant when she called in on December 10, 2014 raising her day care issues that it would extend her date to attend the PATH orientation to December 22, 2014 and she would have to complete and submit an application for Child Development and Care (CDC) benefits and a DHS-4575, Child Care Family Preservation Need Verification, to establish that the AHR, the child's father and a member of the household, was unable to provide care for the child. The Department established that it had provided the DHS-4575 form to Claimant and the AHR.

The lack of child care is good cause for a FIP employment-related noncompliance if the client requested child care services from the Department, PATH, or other employment services provider *prior to* case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the child's home or work site. BEM 233, p. 5. In this case, Claimant and the AHR admitted that no CDC application was submitted to the Department.

The AHR also admitted that no completed DHS-4575 was submitted to the Department, explaining that, because the Medical Review Team (MRT) had concluded that he was disabled and deferred him from participating in the PATH program, he believed it was unnecessary to have additional documentation to establish that he was physically unable to care for the child.

Department policy provides that, as a condition of CDC eligibility, **each** parent must demonstrate a valid need reason for child care. BEM 703 (November 2014), pp. 1, 4. A valid need includes family preservation, which includes the parent's inability to provide care due to a condition for which he is being treated by a physician. BEM 703, p. 5. To verify a need based on family preservation, the client must submit a DHS-4575 signed by a physician or other identified individuals.

In this case, the AHR lives in the household with Claimant and is the father of the ■-year-old child at issue. Therefore, the AHR had to verify his need by completing the DHS-4575 as a condition for CDC eligibility.

Because Claimant and the AHR did not submit a completed CDC application or DHS 4575, the Department acted in accordance with Department policy when it concluded that Claimant did not establish good cause for her failure to attend the PATH program based on lack of child care.

At the hearing, Claimant and the AHR also alleged that at the triage they raised the issue that Claimant was unable to participate in the PATH program because of her physical and mental condition. The evidence at the hearing established that Claimant had requested a deferral from the PATH program because of a disability but MRT had denied the deferral on June 6, 2014 and concluded that she was work-ready without limitations (Exhibit 2).

Department policy provides that if MRT has made a decision regarding a client's disability, the MRT decision stands unless the client states he or she has new medical evidence or a new condition resulting in a disability greater than 90 days. BEM 230A, pp. 15-16. At that time, the Department must gather new verifications and send for an updated MRT decision. BEM 230A, p. 16. When an individual presents a doctor's note after the MRT decision but does **not** have new medical evidence or a new condition, the Department must send the DHS-518, Assessment for FIP Participation, to the doctor and request supporting medical evidence. BEM 230A, p. 16.

In this case, the AHR argued that the Department failed to consider medical documentation submitted by Claimant's primary care doctor, ■■■■■■■■■■, and presented into evidence an "Order Requisition Form" dated July 22, 2014 which showed diagnoses of memory loss, cervicgia, and carpal tunnel syndrome. There was no evidence that any documentation was presented to the Department at the time of the triage. To the contrary, the Order Requisition Form was date-stamped as received by the Department on March 2, 2015 and the Department's review of its system showed that it had not been previously received. The AHR also argued that MRT did not consider medical documents completed by ■■■■■■■■■■. It is unclear what medical documentation MRT based its disability determination, but there was no evidence submitted by Claimant or the AHR that it had notified the Department of a *new* medical condition or provided *new* medical evidence, including any documentation from Claimant's primary care physician, after MRT made its decision. Because Claimant did not present any copies of documentation her doctor allegedly provided to the Department, it could not be established that there was new medical documentation submitted after MRT's decision or even to establish, if the documents were dated prior to MRT's decision, whether they were considered by MRT. In the absence of any evidence of a new medical condition or new medical documents after the MRT decision, Claimant could not rely on her alleged disability to establish good cause for her noncompliance. In the absence of any good cause for Claimant's noncompliance with employment related activities, the Department acted in accordance with Department policy when it closed Claimant's FIP case.

At the hearing, the Department testified that Claimant had a prior FIP-related employment activities noncompliance in 2008. The AHR was unable to counter the Department's testimony. Accordingly, the Department established that Claimant's December 2014 noncompliance was her second noncompliance. The second occurrence of FIP employment-related noncompliance results in a minimum six-month closure of the client's FIP case. BEM 233A, p. 8. Therefore, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a six-month minimum.

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 Claimant's FIP case for a six-month minimum.

DECISION AND ORDER

Claimant's hearing request concerning her MA and FAP issues is **DISMISSED** for the reasons discussed above.

The Department's FIP decision is **AFFIRMED**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/25/2015**

Date Mailed: **3/25/2015**

ACE / 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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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]