

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

IN THE MATTER OF:

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

Reg. No.: 15-000312
Issue No.: 1002
Case No.: ██████████
Hearing Date: February 11, 2015
County: WAYNE-Path to Potential

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. After due notice, a telephone hearing was held on February 11, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Success Coach.

ISSUE

Did the Department properly close the Claimant's FIP cash assistance case for failure to comply with the Path program work requirements and re-engagement letter, and impose a 6-month (second) sanction?

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 attend the Path program and entered into a re-engagement plan with the Path program to attend on December 9, 2014 to complete intake process at 8:30am.
2. The Department sent a Notice of Non Compliance (DHS 2444) to the Claimant on December 15, 2014 to attend a triage on December 26, 2014 at 9:00 am. Exhibit 3
3. The Department sent a Verification Checklist (DHS 3503) manually prepared changing the triage on December 17, 2014 and indicated that an interview at the Development Center would be held. On the second page of the Verification Checklist, the Department changed the triage appointment to December 17, 2014

because of no participation in required activity. Claimant did not receive the Verification. Exhibit 4

4. The Department sent a Notice of Case Action dated December 15, 2014 closing the Claimant's FIP case and imposing a 6-month sanction effective January 1, 2015. Exhibit 2
5. The Claimant requested a hearing on January 16, 2015 protesting the closure of her cash assistance and the sanction.

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.

Additionally, in this case the Department closed the Claimant's FIP case for failure to comply with a re-engagement letter and appear at PATH on that date. The Claimant had been sent to a Clothes Closet to obtain proper attire and did go to the Clothes Closet as assigned, but due to a school emergency, left as she had to pick up her kids from school due to school closing. The Claimant credibly testified that she did appear as required on December 9, 2014 in compliance with the re-engagement letter to complete intake at the appointed place and time, but was not admitted by the PATH receptionist. Claimant signed the sign-in book and the front desk receptionist would not admit her.

The Department conducted a triage on December 17, 2014 and found the Claimant in noncompliance without good cause. The Claimant did not attend the triage. At the hearing, the Department conceded that the Claimant's case should not have closed for 6 months, as a previous triage found the Claimant to have demonstrated good cause. Thus, the Notice of Case Action of December 15, 2014 is in error as the closure should have been for only three months.

The Department had originally scheduled a triage by a Notice of Noncompliance, DHS 2444, which the Claimant received and planned to attend the triage on December 26, 2014. Thereafter, the Department issued a Verification Checklist which on the first page scheduled an interview, not a triage. On the second page of the Verification, the

Department indicated a triage would be held at a different location and did not refer to the Notice of Noncompliance. Exhibit 4. The Verification Checklist that was sent manually by the Department to change the triage date did not give adequate notice and should not have been used by the Department to reissue a change of the date and place for the original Notice of Non Compliance as it was not a DHS 2444 as required by BEM 233A. BEM 233A referenced below requires when processing the FIP Closure and provides:

DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance, which is sent to the client. The following information will be populated on the DHS-2444:

The name of the noncompliant individual

The date of the initial noncompliance. (For individuals being served by PATH, this is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage activity in OSMIS.)

All the dates, if addressing more than one incident of noncompliance.

The reason the client was determined to be noncompliant.

The penalty that will be imposed.

The scheduled triage appointment, to be held within the negative action period. BEM 233a (10/1/14) pp.11

In addition to the improper notice by the Department using a verification checklist rather than a corrected DHS 2444, the Claimant credibly testified that she did not receive the Verification Checklist. Exhibit 4. See also Claimant Exhibit A. The Claimant also indicated that she had been having trouble receiving her mail and had complained to the post office. Normally, a letter properly addressed and mailed is presumed to have been received. However in this case, the Department presented no testimony from the person sending the verification checklist who could testify to its proper addressing and mailing. Therefore, it is determined that the Claimant did not receive proper notice of the triage change and has adequately rebutted the presumption of receipt. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Lastly, during the hearing the Claimant credibly testified that she did in fact appear for her re-engagement on December 9, 2014, and was appropriately attired and on time. Based upon this credible testimony, and the failure of the Department to present any witness to the contrary, or provide the PATH sign-in book, it is determined that the Claimant has demonstrated good cause and her FIP case should not have been closed and sanctioned. Also, the Department conceded that the 6-month penalty was in error due to a prior triage which it counted did not result in a sanction being imposed, as good cause was found by the Department. The Department also did not present a sanction counter to verify the proper penalty sanction. BEM 233A. Therefore, the Department did not establish by the evidence presented that a 6-month sanction was correct.

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 did not act in accordance with Department policy when it closed the Claimant's FIP case for noncompliance without good cause of the PATH requirements and her re-engagement agreement.

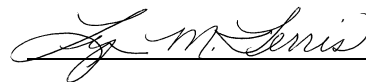
DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Claimant's FIP case and remove the sanction imposed for noncompliance with the Path Program arising out of the re-engagement issue resolved by this Decision. The Department shall also review and determine whether the first sanction previously imposed is appropriate as, it appears that the Claimant was found to have good cause. After the review, if the sanction is deemed to be in error, the Department shall also remove same and correct the case record.
2. The Department shall issue a FIP supplement to the Claimant for FIP benefits, if any, the Claimant was entitled to receive in accordance with Department policy.



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

Date Signed: **2/18/2015**

Date Mailed: **2/18/2015**

LMF/tm

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]