

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

IN THE MATTER OF:

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Reg. No.: 15-003304
Issue No.: 1008
Case No.: ██████████
Hearing Date: April 23, 2015
County: Wayne-District 18 (Taylor)

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 telephone hearing was held on April 23, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her fiancé, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ Hearings Facilitator, ██████████, Case Manager and ██████████, Family Independence Manager.

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 sought a deferral from participation in the PATH work program on the basis that she was disabled.
3. On or around January 16, 2015, the Medical Review Team (MRT) denied Claimant's request for deferral, determined that she was not disabled, and that she was work ready with limitations. (Exhibit A)

4. On January 30, 2015, the Department sent Claimant a PATH Appointment Notice instructing her attend the PATH program on February 9, 2015. (Exhibit B)
5. Claimant did not attend her PATH appointment on February 9, 2015.
6. On February 18, 2015, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on February 26, 2015, to discuss whether good cause existed for her noncompliance. (Exhibit C)
7. On February 18, 2015, the Department sent Claimant a Notice of Case Action informing her that effective April 1, 2015, the Department intended to terminate her FIP benefits and impose a three month FIP sanction based on a failure to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit D)
8. On February 26, 2015, Claimant submitted a hearing request disputing the Department's actions.

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. BEM 233A (October 2014), 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, 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. BEM 233A, pp. 4-6.

Good cause can include any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or

injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, 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, p.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 (October 2014). Work participation program participants will not be terminated from a work participation program without the Department 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. 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, Claimant alleged a disability as grounds for deferral from participating in PATH. BEM 230A (October 2014), pp.9-13. Claimant's medical documentation was sent to MRT to determine if her request for deferral would be granted. On or around January 16, 2015, MRT determined that Claimant was not disabled for PATH purposes and that she was work ready with limitations. (Exhibit A). Pursuant to BEM 203A and BEM 229, because Claimant's temporary deferral ended, on January 30, 2015, the Department sent Claimant a PATH Appointment Notice instructing her to attend the PATH program on February 9, 2015. (Exhibit B);BEM 230A, pp14-15;BEM 229 (July 2013), pp.3-6.

The Department testified that because Claimant did not attend her PATH appointment on February 9, 2015, Claimant was placed in noncompliance with work-related activities. The Department sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting to discuss whether she had good cause for her noncompliance. (Exhibit C). A triage was conducted on February 26, 2015, at which Claimant appeared. At the triage, the Department determined that Claimant did not have good cause for her failure to attend the PATH appointment, and initiated the closure of Claimant's FIP case effective April 1, 2015, imposing a three month sanction for the first occurrence of noncompliance. (Exhibit D).

At the hearing, Claimant testified that she contacted her case worker the day before her PATH appointment and informed her case worker that she could not attend the PATH program on February 9, 2015, because she was in terrible pain due to her medical conditions. Claimant testified that at the triage, she informed the Department that she had an MRI done on February 7, 2015, and provided the Department with a copy of the MRI report in support of her testimony. Claimant stated that she informed that Department that she had new medical conditions that now require surgery and additional medical evidence that had not been evaluated by the MRT and that her condition has since worsened. The Department acknowledged that Claimant submitted the MRI report at the triage and was unable to refute Claimant's testimony that Claimant had new evidence of new medical conditions that were not evaluated by MRT, as the Department representatives present for the hearing were not previously assigned to Claimant's case. Claimant also provided for review some medical documentation showing that she has had additional services and diagnosis after the MRT decision was issued. (Exhibit 1).

With respect to the MRT decision, if MRT has made a disability determination but the client states she has new medical evidence or a new condition resulting in disability greater than 90 days, the Department must gather new verifications from the client and send for an updated MRT decision. BEM 230A, pp. 15-16. The Department specialist must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency while gathering verifications or assisting clients with obtaining medical verification or testing. BEM 230A, p. 16. If new medical evidence is not provided, the case is not sent back to MRT; the previous MRT decision stands. BEM 230A, p. 16. If the case is referred to MRT, the client's case is identified as "establishing incapacity" in the Department's system. BEM 230A, p. 13.

Under the facts in this case, where Claimant has established that she had new medical conditions that were not evaluated by the MRT, the Department did not act in accordance with Department policy when it failed to request verification of the new conditions prior to case closure. Furthermore, the Department did not act properly when it determined that Claimant was noncompliant with employment related activities without good cause, closed Claimant's FIP case, and imposed a three month sanction,

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 Claimant's FIP case effective April 1, 2015.

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. Remove the sanction/penalty that was imposed on Claimant's FIP case;
2. Reinstate Claimant's FIP case effective the date of closure, April 1, 2015;
3. Issue FIP supplements to Claimant from April 1, 2015, ongoing; and
4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/29/2015**

Date Mailed: **4/29/2015**

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]
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