

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-003429
Issue No.: 1008
Case No.: ██████████
Hearing Date: April 13, 2015
County: Wayne-District 15 (Greydale)

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, a telephone hearing was held on April 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Specialist/PATH Worker; ██████████, PATH Case Manager; and ██████████, PATH Job Developer.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to accept employment and apply a six-month sanction to her case?

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. On February 3, 2015, Claimant received an offer of employment from the ██████████ (Employer) to begin employment on February 11, 2015. Claimant accepted the offer.
3. On February 11, 2015, Claimant called Employer and her PATH worker to advise them that she did not believe she would be able to do the work required by Employer.
4. Claimant did not begin employment with Employer on February 11, 2015.

5. On February 18, 2015, 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 February 24, 2015, and (ii) a Notice of Case Action notifying her that her FIP case would close effective April 1, 2015, because of the noncompliance without good cause and would remain closed for a minimum of six months.
6. On February 25, 2015, Claimant filed a request for hearing disputing the Department's actions.

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.

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 (January 2015), 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 accept a job referral. BEM 233A, p. 2. In this case, Claimant admits that she accepted employment with Employer on February 2, 2015 but did not start her employment as required on February 11, 2015. Therefore, Claimant was in noncompliance with her employment activities.

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. A noncompliance is excused if a client can establish good cause for the noncompliance. BEM 233A, p. 4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4.

Claimant attended the triage. The Department concluded that Claimant refused employment with Employer. The Department testified that, although Claimant indicated that she would be unable to perform the physical demands of employment with

Employer, it did not find good cause for the noncompliance because Claimant failed to start employment with Employer and show that she could not perform the duties of the job.

At the hearing, Claimant explained that she was pregnant with a [REDACTED], due date and, between February 2, 2015, when she was offered employment by Employer, and February 11, 2015, her scheduled start date with Employer, she had done volunteer work at the Department and was having difficulty standing. She produced a letter signed by her doctor putting her on bed rest beginning February 19, 2015. Clients may be deferred from PATH due to pregnancy complications if they provide medical verification that indicates that they are unable to participate. BEM 230A, p. 9. Claimant credibly testified that she provided a copy of this note to the Department at the triage. The Department worker, who testified that he could not recall whether the note was provided at the triage, and the PATH Job Developer, who acknowledged that she participated in the triage by telephone, were unable to refute Claimant's testimony that the note was provided at the triage. Claimant's doctor also completed a note dated March 31, 2015, showing that Claimant was diagnosed with pregnancy-induced hypertension. Claimant explained that, although she was not diagnosed until March 31, 2015, she had been experiencing complications from the diagnosis in February 2015.

Based on the doctor's note provided by Claimant to the Department at the February 24, 2015, triage, Claimant established good cause for her noncompliance due to pregnancy complications and was entitled to a deferral from participation from PATH. Therefore, 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.

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 FIP employment-related noncompliance sanction applied on or about April 1, 2015 from Claimant's record;
2. Reinstate Claimant's FIP case effective April 1, 2015; and
3. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from April 1, 2015 ongoing.



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

Date Signed: **4/21/2015**

Date Mailed: **4/21/2015**

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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