

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

**IN THE MATTER OF:**

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

Reg. No.: 15-003463  
Issue No.: 1008  
Case No.: ██████████  
Hearing Date: April 09, 2015  
County: WAYNE-DISTRICT 17  
(GREENFIELD/JOY)

**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 April 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, PATH Coordinator, and Lucille Granison, Eligibility Specialist. ██████████, Case Manager of Michigan Works, also appeared as a witness for the Department.

**ISSUE**

Did the Department properly close the Claimant's Family Independence Program (FIP) case due to non-cooperation 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 had completed 21 days of PATH participation and was scheduled to start PATH activities on January 1, 2015. The Claimant did not attend her appointment.
3. Thereafter the PATH program gave the Claimant another PATH appointment for re-engagement for January 15, 2015 at 10:30 a.m., due to the Claimant indicating she had been ill on January 5, 2015. The Claimant was informed to bring a medical excuse for her January 5, 2015 absence to the appointment on January 15, 2015. Exhibit 5.
4. The Claimant did not appear for her appointment on January 15, 2015.

5. On January 29, 2015 the Department held a triage to determine whether the Claimant had good cause for missed PATH appointments. The Claimant was required to participate by phone as she is not allowed in DHS offices due to the zero tolerance policy. The Department called the Claimant at 9:00 a.m. and 9:30 a.m. and the Claimant was unavailable by phone. The Department held a triage in Claimant's absence and found no good cause due to Claimant's failure to appear for two appointments.
6. A Notice of Case Action was sent to the Claimant notifying Claimant that effective March 1, 2015, her FIP case would close for a three-month period due to failing to participate in employment-related activities without good cause. Exhibit 1.
7. The Notice of Case Action imposed a three month sanction instead of a six month sanction. The Department asserted the three month sanction it imposed was an error and the sanction should have been six months based upon a prior sanction on September 1, 2014. Exhibit 1
8. The Claimant requested a hearing on January 19, 2015 regarding non-compliance with the PATH Program.

### **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 due to her failure to appear for two appointments scheduled by the PATH Program so she could begin her PATH activities. Two appointments were scheduled for the Claimant to begin PATH participation; the first was not attended due to the Claimant's claim that she was ill. In an attempt to accommodate the Claimant, the PATH program rescheduled another meeting (re-engagement) thereafter on January 15, 2015 and requested the Claimant bring an excuse from her doctor regarding the January 5, 2015 missed appointment confirming her illness on that day. The Claimant also did not appear for the January 15, 2015 appointment and as of the hearing the Claimant had not provided a doctor statement for either missed appointment. During the hearing it was discovered that the Department did receive correspondence from Claimant's doctor on March 9, 2015, but this information was not received at the triage and thus was not considered. Claimant Exhibit A. Because of the Claimant's two missed appointments a triage was

scheduled and the Claimant also did not attend the triage. The triage was scheduled for 9:00 a.m. and the Department called the Claimant's phone two times to contact her during the triage appointment and did not hear from the Claimant thereafter.

At the hearing the Department found a letter in its electronic correspondence system from Claimant's doctor dated [REDACTED] confirming a diagnosis and stated "a diagnosis of trigeminal neuralgia which I made on [REDACTED]. She was seen again on [REDACTED] and continued to have the problem and treatment was increased. She has follow-up visits scheduled and is still under my care." Claimant Exhibit A. The same doctor provided a note dated [REDACTED] indicating that the Claimant was able to return to work/school on [REDACTED]. Exhibit 7. Based upon these two letters the Claimant has not established good cause as the doctor does not indicate she is unable to attend the PATH Program due to her illness.

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 2013), p. 1; BEM 233A (July 2013), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to appear and participate with the work participation program or other employment service provider, to participate in any required activities, or to complete a job application. BEM 233A, p. 2. The Department alleged that Claimant was in non-compliance with her FIP obligations because she had failed to appear to participate in the PATH program as assigned on two occasions.

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 non-compliance and good cause. BEM 233A, p. 9. In this case the Department, based upon the information available at the triage, correctly determined that the Claimant did not have good cause **based** upon the information reviewed and available at the triage. All the Department had before them at the triage to review was a [REDACTED] letter from the doctor releasing the Claimant for work. The Claimant's failure to attend two appointments and failure to provide any doctor's excuse as requested was enough information to determine the Claimant had no good cause. A review of the letters available from her doctor do not establish that the Claimant had a medical condition on January 5, 2015 or January 15, 2015 which excused Claimant from attending the PATH appointments; the [REDACTED] letter indicates she is able to work, the subsequent letter dated [REDACTED] does not indicate that because she had a continuing condition for which she was being treated that she was unable to work or attend PATH. Exhibit 7 and Claimant Exhibit A.

In addition, based upon the information provided by the Department at the hearing, a Bridges penalty counter demonstrates a prior sanction imposed in September 2014 for a three month period. Exhibit 2. Based upon the penalty counter information, the Department's Notice of case action closing the Claimant FIP case effective March 1,

2015 is incorrect. The evidence presented establishes that the 3 month sanction imposed by its Notice of Case Action imposing a three month sanction is incorrect. Exhibits 1 and 2.

Based on the evidence presented, the Department properly determined that Claimant did not have good cause for her non-compliance at the triage held in this case and that the Department acted in accordance with Department policy when it closed Claimant's FIP case. Because this was Claimant's second occurrence of FIP employment-related non-compliance, the Department's Notice was incorrect and must be amended to correctly indicate the sanction period is six months. BEM 233A, p. 8.

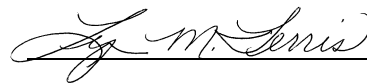
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed the Claimant's FIP case due to non-compliance with the PATH program requirements and failure to participate as required without demonstrating good cause. The Department did not act in accordance with Department policy when it incorrectly issued the Notice of Case Action including the wrong sanction period.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the Closure of the Claimant's FIP case for noncompliance with the Path Program requirements without good cause; and **REVERSED IN PART** with respect to imposition of the wrong sanction period.

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 issue another Notice of Case Action with the correct sanction period of six months disqualification from receiving FIP benefits.



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

Date Signed: **4/13/2015**  
Date Mailed: **4/13/2015**  
LMF / cl

**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]  
[REDACTED]