

**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.: 15-003630
Issue No.: 1008; 3000
Case No.: ██████████
Hearing Date: April 15, 2015
County: Wayne-District 31 (Grandmont)

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 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████, Family Independence Specialist. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to noncompliance 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 and Food Assistance Program (FAP) benefits.
2. In October 2014, Claimant alleged that she was unable to participate in the PATH program due to a disability.
3. On November 20, 2014, the Medical Review Team (MRT) concluded that Claimant was not disabled and denied her request for a deferral from participation in the PATH program (Exhibit A).

4. On November 21, 2014, the Department notified Claimant that her PATH deferral had been denied by MRT and that she would be referred back to the PATH program (Exhibit B).
5. On December 1, 2014, the Department sent Claimant a PATH Appointment Notice requiring her to attend a PATH orientation on December 9, 2014 (Exhibit C).
6. Claimant did not attend the December 9, 2014, appointment but subsequently reengaged with PATH (Exhibit H).
7. On January 26, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she was in noncompliance with employment-related activities and scheduling a triage on February 4, 2015, and (ii) a Notice of Case Action notifying her that, because of her noncompliance with employment related activities, her FIP case would close effective March 1, 2015, for a three month minimum and her FAP benefits would decrease effective March 1, 2015 (Exhibits D and F).
8. The Department concluded that Claimant did not have good cause for her noncompliance (Exhibit E).
9. On March 6, 2015, Claimant requested a hearing disputing the Department's actions concerning her FIP and FAP 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 requested a hearing concerning her FIP and FAP cases. Claimant testified at the hearing that she was satisfied with the Department's actions concerning her FAP case and she did not wish to proceed with a hearing concerning that matter. As such, Claimant's hearing request concerning the FAP issue is dismissed. The hearing proceeded to address Claimant's FIP issue.

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 appear for a scheduled appointment or meeting related to assigned activities or to participate in required activity. BEM 233A, p. 2. 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.

In this case, the Department alleged that Claimant had failed to comply with her FIP employment-related activities because she did not attend the December 9, 2014, PATH appointment. Claimant admitted that she did not attend the December 9, 2014, PATH appointment but explained that she did not receive the notice until after December 9, 2014. She further explained that after she received the notice she went to her PATH worker who accepted her into the program and had her submit job search logs. Case notes completed by the PATH worker supported Claimant's testimony that she was participating in PATH after December 9, 2014 (Exhibit H). Because Claimant was accepted into the PATH program and began participating in the PATH program, the Department has failed to establish that she was noncompliant with the program because she did not attend the December 9, 2014, appointment. Although there was evidence in the PATH case notes that Claimant was subsequently noncompliant with the PATH program, there was no clear evidence presented concerning the activities she was required to participate in and how she was noncompliant with those activities.

It is further noted that Claimant testified that, contrary to the Department's testimony, she participated in the triage by phone and at that time advised the Department that she had additional disabilities which had not been assessed by MRT. 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.

Because Claimant indicated that she had a new medical condition prior to her case closure, the Department was required to request new verifications. In this case, the Department acknowledged that on March 17, 2015, it received a Medical Needs form, DHS-54, completed by Claimant's doctor that identified medical conditions not previously assessed by MRT (Exhibit 1). While the document was completed and submitted after the case closure, Claimant testified that she was advised by the

participants in the triage that her medical issues were not relevant and she would continue to be sanctioned. No representatives from the triage were at the hearing to counter Claimant's testimony. Because Claimant had been advised that her new medical condition would not change the outcome in her case, her delay in submitting the documentation is justified. The DHS-54 supports her testimony concerning her new medical condition and further supports the conclusion that Department did not act in accordance with Department policy when it did not request verification of the new condition prior to case closure.

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

Per Claimant's agreement, Claimant's hearing request concerning her FAP issue is **DISMISSED**.

The Department's FIP 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 sanction applied to Claimant's record on or about March 1, 2015;
2. Reinstate Claimant's FIP case effective March 1, 2015;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from March 1, 2015, ongoing.



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

Date Signed: **4/17/2015**

Date Mailed: **4/17/2015**

