

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-004043
Issue No.: 1008
Case No.: ██████████
Hearing Date: April 20, 2015
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ Family Independence Specialist; ██████████, Family Independence Manager; and ██████████ Case Manager from the Partnership. Accountability. Training. Hope. (PATH) program.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's 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. On January 7, 2015, the PATH program informed Claimant about a job interview scheduled on January 8, 2015, which Claimant agreed to attend. See Exhibit 1, p. 12.

3. On January 8, 2015, Claimant testified that she contacted the PATH program and left a voicemail indicating she could not attend the interview due to a school scheduling conflict. The Department indicated it did not receive a voicemail.
4. On January 8, 2015, Claimant did not attend her scheduled interview. See Exhibit 1, p. 12.
5. On January 12, 2015, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on January 20, 2015. Exhibit 1, pp. 5-6.
6. On January 12, 2015, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective February 1, 2015, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit 1, pp. 7-9.
7. On January 20, 2015, Claimant attended her triage appointment; however, the Department determined no good cause for her non-compliance. See Exhibit 1, pp. 10-11. Claimant testified that she provided verification of her school attendance and/or record dated January 12, 2015, to the Department; however, the Department indicated it did not receive such verification at triage.
8. On March 9, 2015, Claimant filed a hearing request, protesting the FIP case closure. See Exhibit 1, p. 2.

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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (October 2014), p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

In this case, on January 7, 2015, the PATH program informed Claimant about a job interview scheduled on January 8, 2015, which Claimant agreed to attend. See Exhibit 1, p. 12. On January 8, 2015, Claimant testified that she contacted the PATH program and left a voicemail indicating she could not attend the interview due to a school scheduling conflict. Claimant testified that she contacted the PATH program two hours prior to the scheduled interview. Claimant testified that she could not miss a certain number of hours and/or days from school. The Department indicated it did not receive a voicemail. As such, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on January 20, 2015. Exhibit 1, pp. 5-6.

On January 20, 2015, Claimant attended her triage appointment; however, the Department found no good cause for her non-compliance. See Exhibit 1, pp. 10-11. Claimant testified that she provided verification of her school attendance to the Department. In fact, at the hearing, Claimant provided a copy of her school attendance verification that she alleged she provided to the Department at triage. See Exhibit A, p. 1. A review of the letter indicated Claimant is enrolled in school from December 8, 2014 and is due to graduate on August 27, 2015. See Exhibit A, p. 1. Furthermore, the letter indicated that Claimant is required to continually attend Monday through Friday from 9:00 a.m. to 4:30 p.m. until she graduates. See Exhibit A, p. 1. In response, the Department indicated that it had no knowledge of Claimant attending school before the triage or that she provided Exhibit A at the triage.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective February 1, 2015. This Administrative Law Judge (ALJ) finds that there is no non-compliance present in this case. This ALJ finds that the Claimant credibly testified that she informed the PATH program before her scheduled interview that she could not attend due to her school schedule. Claimant's credibility is supported by her school verification, which confirmed she would be unable to attend the scheduled interview on January 8, 2015. See Exhibit A, p. 1. Policy states that the Department uses the DHS-1538, Work and Self-Sufficiency Rules, to explain a list of bullet points regarding the FIP program to clients at FIP application for each episode of assistance. See BEM 229 (July 2013), pp. 2-3. Further, policy states that the Department ensures the client understands her responsibility to participate in employment-related activities including, but not limited to, calling before they are unable to attend a meeting or appointment and before they become noncompliant. BEM 229,

p. 3. In the present case, this ALJ finds the Claimant credible that she contacted the PATH program before she was unable to attend her scheduled interview. Therefore, Claimant was not in non-compliance as she responsibly contacted the PATH program before she was unable to attend her scheduled interview. See BEM 229, p. 3.

It should be noted that if a non-compliance was present in this case, Claimant also provided a good cause reason. Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 6. Claimant's unplanned event or factor for missing the scheduled interview was that she could not miss a certain number of hours and/or days from school. See BEM 233A, p. 5 and Exhibit A, p. 1. Nevertheless, a good cause determination is not necessary as a non-compliance is not present in this case and the Department will remove Claimant's non-compliance and reinstate her FIP benefits.

DECISION AND ORDER

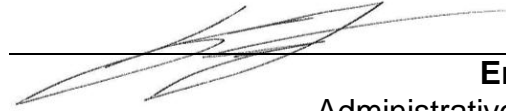
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP benefits effective February 1, 2015.

Accordingly, 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 Claimant's first FIP sanction from her case;
2. Reinstate Claimant's FIP case as of February 1, 2015;
3. Recalculate the FIP budget for February 1, 2015, ongoing;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from February 1, 2015, ongoing; and

5. Notify Claimant of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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

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

EJF/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 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]
[REDACTED]
[REDACTED]
[REDACTED]