

**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.: 15-004590
Issue No.: 1008
Case No.: ██████████
Hearing Date: April 27, 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, PATH Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and sanction the case for a three-month minimum case closure?

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 who had been deferred from participation in the PATH program due to pregnancy.
2. After Claimant's child was born, the Department sent Claimant a PATH Appointment Notice on February 2, 2015, requiring her to attend a PATH orientation on February 9, 2015 (Exhibit A).
3. On February 9, 2015, Claimant arrived at the PATH orientation and was denied admission because her infant child was with her.
4. On February 26, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage on March 10, 2015, and (ii) a Notice of Case Action notifying her that her FIP case was closing effective April 1, 2015, because she

had failed to comply with her employment-related activities and because she was in noncooperation with her child support reporting obligations (Exhibit C).

5. Claimant attended the March 10, 2015, triage; the Department concluded that she did not have good cause for her noncompliance.
6. On March 19, 2015, Claimant requested a hearing disputing the closure of her FIP case.

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.

Claimant disputed the closure of her FIP case. The February 26, 2015, Notice of Case Action notifying Claimant of the closure of her FIP case indicated that the case was closing because she had failed to comply with (i) employment-related activities and (ii) child support reporting obligations.

At the hearing, the Department focused on Claimant's failure to comply with employment related activities without good cause to support the closure of Claimant's FIP case for a three-month minimum. 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 and participate with PATH. BEM 233A, p. 2.

In this case, Claimant testified that she went to PATH orientation on February 9, 2015, but was denied admission because she had her child with her. Because Claimant was unable to complete the PATH orientation, she 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 but was found not to have good cause (Exhibit B). She testified at the hearing that she explained to the triage participants that she received the February 2, 2015, PATH appointment letter on Saturday, February 7, 2015 and, because she was unable to obtain a babysitter on such short notice, she went to the PATH orientation on February 9, 2015, with her child. She further testified that she tried to contact her worker the morning of February 9, 2015, to advise him of her childcare issue, but he did not answer and she was unable to leave a message because his mailbox was full.

Good cause for a noncompliance includes the lack of child care when the client requested child care services from the Department prior to case closure for noncompliance and the child care is needed for an eligible child but none is appropriate, suitable, affordable and within reasonable distance of the client's home or worksite. BEM 233A, p. 5. The evidence at the hearing established that Claimant had been deferred from the PATH program because of her pregnancy and was not aware that she was being referred back to the program at the time she received the February 2, 2015, PATH Appointment Notice. She testified that she had not been advised to apply for Child Development and Care (CDC) benefits until she was able to contact her worker on February 10, 2015, and she promptly did so shortly afterwards.

Under the circumstances in this case, where Claimant was not aware of the timing to be referred to PATH, was not advised to apply for CDC benefits prior to her conversation with her worker on February 10, 2015, and promptly applied for CDC when advised to do so, Claimant established good cause for her failure to comply with her PATH employment-related activities based on lack of day care. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case and applied the three-month sanction applicable to first-time FIP closures due to employment-related noncompliance.

The February 26, 2015, Notice of Case Action also indicated that Claimant's FIP case was closing due to her noncompliance with her child support reporting obligations. Department policy requires the custodial parent of children to comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (April 2015), pp. 1, 9. Failure to cooperate without good cause results in FIP disqualification. BEM 255, p. 2. However, the disqualification is not imposed if the client complies prior to the timely hearing request date. BEM 255, p. 11.

At the hearing, the Department failed to present any evidence that the Office of Child Support requested any information from Claimant concerning her child's paternity before sanctioning her FIP case. Further, Claimant testified that she had resolved the child support issues and OCS had removed the sanction against her. Therefore, to the extent it relied on the child support noncompliance to close Claimant's FIP case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy.

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 any FIP-related employment-related sanction and any child support sanction applied to Claimant's record on or about April 1, 2015;
2. Reinstate Claimant's FIP case as of April 1, 2015; and
3. Issue supplements to Claimant for any 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 and Human Services

Date Signed: **5/5/2015**

Date Mailed: **5/5/2015**

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 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]
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