

**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.: 15-005946
Issue No.: 1008
Case No.: ██████████
Hearing Date: May 18, 2015
County: WAYNE-DISTRICT 57
(CONNER)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 18, 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 ██████████, FIS Case Manager, and ██████████ FIM.

ISSUE

Did the Department properly close and sanction the Claimant's FIP cash assistance for noncompliance with PATH Program participation requirements?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant applied for FIP cash assistance on October 21, 2014. The Claimant was assigned to attend the PATH program and successfully completed the PATH orientation. The Claimant completed the AEP 21 day period and also obtained employment on January 7, 2015. Exhibit A.
2. The Claimant's employment ended and she was assigned to attend job club or call her PATH case manager. The PATH program attempted to reach the Claimant at her phone contact number and left a message. No return call from the Claimant was received. The PATH program knew that the Claimant was having housing problems and was being evicted from her home.

3. In March 2015 the Claimant went to the post office after being evicted from her apartment and arranged for a forwarding address for her mail.
4. The Claimant was sent a Notice of Noncompliance on February 10, 2015 for failure to attend PATH after her employment ended. A triage was conducted on February 17, 2015 and Claimant did not attend. The Notice of Noncompliance was sent to the Claimant's address on file with the Department.
5. The Department sent a Notice of Case Action on February 10, 2015 closing her FIP case effective March 1, 2015 and imposing a 3 month sanction for noncompliance with the PATH program participation requirements.
6. The Claimant requested a hearing on April 3, 2015 protesting the closure of her FIP cash assistance.

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.

In this case, the Department closed the Claimant's FIP case after she failed to participate with the PATH program after her job assignment ended. The Claimant testified that she was living from house to house and did not have anywhere to receive mail and did not get the triage notice. The Claimant also did not return phone calls from the PATH program personnel who called her contact phone number and alternate phone number when her phone became disconnected, when she did not attend PATH after her work assignment ended. Thereafter, in March 2015 the Claimant changed her address to its current address and had her mail forwarded. The Claimant also claimed that she was told by the PATH program manager assigned to her that she did not have to attend PATH if she was six months pregnant. The Claimant could not say during the hearing when she became six months pregnant. The Claimant claimed to be placed on bed rest by her doctor; however, she did not provide the PATH program or her case worker any doctor's note. The Claimant last attended the PATH program at the end of January 2015.

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM 233A (May 1, 2015) p. 1.

**GOOD CAUSE
FOR
NONCOMPLIANCE**

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral.

Good cause includes the following:

**Employed 40
Hours**

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

**Illness or
Injury**

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

**Reasonable
Accommoda
tion**

The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

**Unplanned
Event or
Factor**

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization. BEM 233A (5/1/15) p. 1-7

At the triage the Department is to determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. **Good cause must be considered even if the client does not attend**, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A p. 9-10

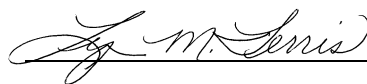
In this case the Department properly closed and sanctioned the Claimant's FIP cash assistance as she failed to attend PATH after completing a one week job assignment. Prior to January, the Claimant did complete PATH orientation; however, after her job assignment ended she did not attend job club or otherwise reengage after her job ended. The Claimant did not attend once a week while evicted and after completing her employment. Thereafter, the Claimant testified that she believed that she no longer had to attend PATH based upon her PATH worker advising her that she did not have to attend after she became six months pregnant. This testimony by the Claimant is highly improbable and not credible as the only basis for pregnancy deferral at six months would be pursuant to a doctor's excuse and the granting of a deferral. No such procedure was followed, nor did the Claimant present a doctor's note at the hearing supporting her claimed disability. Similarly, being evicted might have excused the Claimant from attending PATH; however, in light of her failure to communicate with the PATH program after January, 2015, failure to return phone calls and show up once a week, and lastly failure to arrange to forward her mail to her relative's address where she now lives until March 2015, indicates that the Claimant made no effort to participate or communicate with the PATH program.

Thus it is determined based upon the evidence presented, that the Department properly closed and sanctioned the Claimant's FIP cash assistance for failure to comply with PATH program requirements without good cause. BEM 233A (1/1/14) p. 1-6. The Claimant may reapply for benefits in May 2015.

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 Claimant's FIP cash assistance case and imposed a three month sanction for noncompliance.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **5/27/2015**

Date Mailed: **5/27/2015**

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 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]