

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-006835
Issue No.: PATH
Case No.: ██████████
Hearing Date: ██████████
County: JACKSON

ADMINISTRATIVE LAW JUDGE: Colleen Lack

AMENDED 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; Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Manager; ██████████, Family Independence Specialist; and ██████████, Skill Manager, Michigan Works Agency.

At the conclusion of the hearing, a Hearing Decision was issued by Administrative Law Judge Colleen Lack and mailed on June 15, 2015, which is hereby **AMENDED** to correct the relationship between Claimant and the other FIP group members.

ISSUES

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

Did the Department properly decrease the Claimant's FAP group's monthly allotment due to the FIP sanction?

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, her daughter, and ██████████ (██████), the father of Claimant's child, were recipients of FIP benefits, and ██████████ was a mandatory PATH participant.
2. ██████████ was required to participate in PATH 35 hours per week.

3. [REDACTED] was referred for a Work Experience Program (WEP) at a specified shelter to meet the 35-hour-per-week requirement.
4. [REDACTED]. did not attend the WEP assignment to meet the 35-hour-per-week PATH participation requirement.
5. On April 21, 2015, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on [REDACTED]'s alleged noncompliance.
6. On April 21, 2015, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective June 1, 2015, due to an alleged violation of the PATH program requirements.
7. On April 30, 2015, the Claimant filed a request for hearing contesting the Department's action.

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.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each Work Eligible Individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A, January 1, 2015, p. 1.

A WEI and non-WEIs¹, who fails to participate in employment or self-sufficiency-related activities without good cause, must be penalized. Depending on the case situation, penalties include the following: delay in eligibility at application; ineligibility (denial or termination of FIP with no minimum penalty period); case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. The goal

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

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 October 1, 2014, p. 1.

Noncompliance of applicants, recipients, or member adds includes, without good cause, failing or refusing to: appear and participate with PATH or other employment service provider; provide legitimate documentation of work participation; participate in employment and/or self-sufficiency-related activities; and participate in required activity. BEM 233A, p. 2.

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. Good cause based on no transportation applies when the client requested transportation services from DHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. Good cause related to an unplanned event or factor applies when 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 a health or safety risk. BEM 233A, pp. 4-6.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is determined 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 233 A, p. 9.

A triage meeting was held on April 28, 2015, and no good cause was found.

The Department asserts that [REDACTED] has been noncompliant with the PATH program requirements based on not meeting the required participation of 35 hours-per-week. On April 3, 2015, [REDACTED] attended a re-engagement meeting related to his lack of participation. [REDACTED] was made aware of the consequences of not meeting the 35-hours-per-week requirement. [REDACTED] was referred for a Work Experience Program (WEP) at a specified shelter to meet the 35-hours-per-week participation requirement. By April 21, 2015, [REDACTED] did not attend the WEP assignment to meet the 35-hours-per-week participation requirement.

The Department asserted that at the triage, the alleged good cause related to an individual at the specified shelter having a PPO against Claimant. Therefore, Claimant does not want to go near the shelter and would not transport [REDACTED] there. However, Claimant's hearing request and testimony indicated there are threats of bodily harm to

Claimant and [REDACTED] stemming from the murder trial of her grandson. Claimant testified that [REDACTED] requested a different location for his WEP.

The Skill Manager explained that due to his criminal background, there are limited options for WEP locations that will accept [REDACTED], and this specific shelter was the only option available.

Claimant has provided sufficient evidence of good cause for the non-compliance of [REDACTED] not participating in the WEP assignment for his PATH requirements. An April 27, 2015, letter from the Coordinator of the Victim's Rights Unit documented that on April 17, 2015, Claimant and [REDACTED] were confronted outside the courthouse by supporters of the person found guilty in the death of Claimant's grandson. The confronters left on foot, walking toward the specified shelter. The Coordinator of the Victim's Rights Unit requested that Claimant and [REDACTED] be allowed to complete PATH someplace other than downtown Jackson. This letter provides credible information of an unplanned event or factor that likely prevents or significantly interferes with [REDACTED]'s ability to attend the WEP assignment to meet PATH participation requirements. Accordingly, the closure and sanction of the Claimant's FIP case based on the noncompliance with the PATH program requirements cannot be upheld.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

Additionally, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the two situations, one of which is when client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233 B, July 1, 2013, p. 1.

A FAP group member is disqualified for noncompliance when all the following exist: the client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance; the client did not comply with FIP/RCA employment requirements; the client is subject to a penalty on the FIP/RCA program; the client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B); and the client did not have good cause for the noncompliance. BEM 233 B, p. 3.

In this case, [REDACTED] was active for both FAP and FIP on the date of noncompliance. However, good cause has been established for the non-compliance. Accordingly, the determination to disqualify [REDACTED] from the FAP group, resulting in the decrease in the FAP group's monthly allotment, cannot be upheld.

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 and sanctioned the Claimant's FIP case based on [REDACTED]'s noncompliance with the PATH program requirements and when it reduced Claimant's FAP group's monthly allotment based on the FIP sanction.

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. Re-instate the FIP case retroactive to the June 1, 2015, effective date, if not done previously, and remove the sanction for [REDACTED]
2. Re-determine FIP eligibility in accordance with Department policy.
3. Re-determine FAP eligibility retroactive to the June 1, 2015, effective date without the FIP sanction in accordance with Department policy.
4. Issue Claimant any supplement she may thereafter be due.

IT IS SO ORDERED.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/9/2015**

Date Mailed: **7/9/2015**

CL/ [REDACTED]

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 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:

