

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 15-007077
Issue No.: 1008
Case No.: ██████████
Hearing Date: June 04, 2015
County: Wayne-District 49

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 June 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Claimant's manager Paulette Gildersleeve, from Sales Makers, participated in the hearing via telephone and provided a witness statement on behalf of Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████ Case Worker.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to a 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 April 15, 2015, the Department sent Claimant a Notice of Noncompliance instructing her to attend a triage meeting on April 23, 2015, to discuss whether good cause existed for her alleged noncompliance. (Exhibit A)
3. On April 15, 2015, the Department sent Claimant a Notice of Case Action informing her that the Department intended to terminate her FIP benefits and impose a three

month FIP sanction effective May 1, 2015, based on a failure to participate in employment and/or self-sufficiency-related activities without good cause (Exhibit B)

4. On April 24, 2015, Claimant submitted a hearing request disputing the Department's actions.

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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (October 2014), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider, failing or refusing to appear for a scheduled appointment or meeting related to assigned activities, and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. BEM 233A, pp. 4-6.

Good cause can include any of the following: the client is employed for 40 hours/week, the client is physically or mentally unfit for the job, the client has a debilitating illness or injury or a spouse or child's illness or injury requires in-home care by the client, the Department, employment service provider, contractor, agency or employer failed to make a reasonable accommodation for the client's disability, no child care, no transportation, the employment involves illegal activities, the client experiences discrimination, an unplanned event or factor likely preventing or interfering with employment, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p.1.

In processing a FIP closure, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance; the reason the

client was determined to be noncompliant; and the penalty duration. BEM 233A, p.9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (October 2014). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10. A triage must be conducted and good cause must be considered even if the client does not attend. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13.

Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the Department testified that because Claimant was not regularly participating in the PATH program and because she was not communicating with her Department and the PATH workers, it sent Claimant a Notice of Noncompliance informing her that she was required to attend a triage meeting on April 23, 2015, to discuss whether she had good cause for her alleged noncompliance (Exhibit A). The Department did not present a PATH appointment notice and could not identify the exact dates of Claimant's alleged noncompliance or what Claimant failed to do, however. A triage was conducted on April 23, 2015, at which Claimant appeared. At the conclusion of the triage and despite the explanations offered by Claimant that she had recently been hired at a new job and was required to attend trainings, the Department determined that Claimant did not have good cause for her alleged noncompliance and initiated the closure of her FIP case effective May 1, 2015, imposing a three month sanction for the first occurrence of noncompliance (Exhibits 2 and 3).

At the hearing, Claimant credibly testified that she participated in the PATH program for one week and that in March 2015 she was hired with Sprint/Sales Makers and instructed that she was going to be required to attend training and take a drug test. Claimant testified that she informed her case worker after she gained employment that she would not be able to attend PATH, as she had training for her new job. Claimant stated that she was placed on training lists for her new job but that when she would attend the trainings, she was informed that her name was not on the lists and would be sent home. Claimant's manager appeared at the hearing and confirmed much of Claimant's testimony. Claimant's manager testified that Claimant's name was placed on three training lists on March 30, 2015, April 11, 2015, and April 27, 2015 and that she finally completed her training at the end of April 2015. Claimant's manager confirmed that it was likely that Claimant could have shown up to a training only to find that her name was not on the list and be sent home. The representatives present for the hearing were not Claimant's assigned PATH workers and were not present at the triage, so Claimant's testimony was unrefuted.

Under the facts in this case, Claimant has presented sufficient evidence to establish that at the triage and prior to the negative action date, she informed the Department that she had gained employment and was required to attend training and that she would be unable to participate in the PATH program. 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 accorded with Department policy when it determined that Claimant did not have good cause for her alleged noncompliance, closed Claimant's FIP case and imposed a three month 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. Remove the sanction/penalty imposed on Claimant's case;
2. Reinstate Claimant's FIP case effective May 1, 2015;
3. Issue FIP supplements to Claimant from May 1, 2015, ongoing, in accordance with Department policy; and
4. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/10/2015**

Date Mailed: **6/10/2015**

ZB / 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]
[REDACTED]
[REDACTED]
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