

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

IN THE MATTER OF:

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

Reg. No.: 15-007660
Issue No.: 1008, 2000, 3000
Case No.: ██████████
Hearing Date: June 18, 2015
County: WAYNE-DISTRICT (31)

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 June 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. ██████████, Michigan Works, Case Worker II, also appear as a witness for the Department.

ISSUE

Did the Department properly close and sanction the Claimant's FIP cash assistance for failure to participate with work-related requirements 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. The Claimant requested a hearing regarding his FAP and MA benefits but at the hearing indicated that those issues were resolved and he no longer required a hearing on those issues.
2. The Department closed the Claimant's FIP cash assistance when he failed to comply with requirements to meet with his PATH case worker once a week and failed to turn in his school attendance records weekly.
3. The Department issued a Notice of Noncompliance on April 28, 2015 scheduling a triage on May 6, 2015. The Claimant did not attend the triage as he did not receive the Notice in time to attend the triage. The Claimant does not live at the

home where the notice was sent as it is in disrepair and appears abandoned. This description was provided as a result of an OIG referral regarding the Claimant's address and mail problems. The Department conducted a triage and found the Claimant did not have good cause. Exhibit 1.

4. The Department issued a Notice of Case Action on April 28, 2015 closing the Claimant's Cash Assistance FIP benefits and imposed a three month sanction for failure to participate in the PATH program without good cause. Exhibit 1.
5. The Claimant requested a hearing on May 11, 2015 protesting 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.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Claimant was attending school and was approved to use his school class hours as 12 hours participation. The Claimant's PATH caseworker called him when she had not received school records for March 2015 at the beginning of April 2015. During their meeting and discussion the caseworker advised the Claimant that he

was required to turn in his school attendance records weekly and to meet with his caseworker weekly. In addition, the Claimant was given permission to use study time at school (8 hours) as the rest of his PATH participation as long as he provided the Department proof signed by a school librarian. The Claimant provided the PATH program his school records on April 1, 2015 for March 2015 but did not turn in his school attendance records again as of April 17, 2015. A noncompliance letter was sent to the Claimant on April 24, 2015 and was returned to PATH. Thereafter, after a Notice of Noncompliance was issued a triage was held and the Department found no good cause.

At the hearing the PATH caseworker credibly testified that the Claimant understood that the school attendance records were to be turned in on a weekly basis. The Claimant and the PATH caseworker had some disagreement as to whether they were to meet weekly, but the fact remains that the Claimant did not submit his school attendance sheets as required again until April 16, 2015 when he dropped them off. It also was clear that the Claimant was given permission to use his study time as a basis for PATH participation but never provided the caseworker with any signed sheets showing he was studying as he could not get anyone to sign the sheets. The Claimant did not contact his PATH caseworker about this difficulty and attempt to make different arrangements to resolve the problem so participation of 20 hours could be met.

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.

A Work Eligible Individual (WEI) ... who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- 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. BEM 233A (May 1, 2015) 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. Locally coordinate a process to notify PATH case manager of triage day schedule, including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period.

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, after conducting a triage, determined based upon the information available that the Claimant did not have good cause for failing to comply with PATH program requirements.

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. BEM 233A p. 4.

The Claimant did not attend the triage due to failure to receive his mail regarding the triage date, and another prior letter was returned to PATH, the Claimant did not advise the Department that the home the mail was sent to was vacant. Because of the mail issues the Department asked the OIG to confirm the address. Even though Claimant

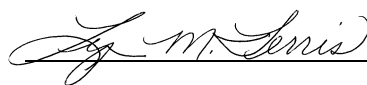
did not attend the triage the evidence presented at the hearing by the Claimant did not establish good cause for his noncompliance with regard to his failure to submit his weekly school attendance records. Even giving the Claimant the benefit of the doubt for not attending weekly meetings with his case manager, as there was some disagreement about this requirement and it is not in the caseworker notes, the Claimant did not take responsibility to insure that he met his 20 hour participation requirements. When the Claimant learned that he could not get his study hours verified by library personnel, he did not ask to meet with his caseworker to resolve the issue. Nor did the Claimant discuss any barriers to his attendance, transportation and schedule. Thus, based on the evidence presented at the hearing, it is determined that the Claimant did not demonstrate good cause for failure to turn in his school attendance records weekly and resolve his 8 hours additional participation due to his inability to get his study hours certified.

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 and sanctioned the Claimant's FIP case for failure to comply with PATH participation requirements without good cause.

DECISION AND ORDER

The Claimant's Request for hearing regarding Medical Assistance and FAP benefits were no longer an issue at the hearing and therefore the Claimant's hearing requests for those benefit programs are **DISMISSED**.

Accordingly, the Department's decision is regarding the FIP case closure is **AFFIRMED**.



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

Date Signed: **6/25/2015**

Date Mailed: **6/25/2015**

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

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