

**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.: 15-007817
Issue No.: 1008, 6001
Case No.: ██████████
Hearing Date: June 17, 2015
County: Wayne-District 15

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 June 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to cooperate with employment-related activities?

Did the Department properly deny Claimant's April 14, 2015, application for Child Development and Care (CDC) benefits?

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. Claimant's child was born December 19, 2014.
3. Claimant FIP case was closed in February 2015 for failure to provide verification of the child's birth, but the Department subsequently reinstated Claimant's case and supplemented her for FIP benefits she was eligible to receive while her case was closed.

4. On March 26, 2015, the Department sent Claimant, to her address of record, a PATH Appointment Notice requiring her to attend a PATH orientation on April 6, 2015 (Exhibit A).
5. Claimant did not attend the PATH orientation.
6. On April 14, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she was not in compliance with her employment-related activities and scheduling a triage on April 21, 2015 to report and verify her reasons for noncompliance and (ii) a Notice of Case Action advising her that her FIP case would close effective May 1, 2015, because she had failed to comply with employment-related activities without good cause (Exhibit B).
7. On April 14, 2015, Claimant filed an online application for CDC benefits (Exhibits C and F).
8. Claimant did not attend the April 21, 2015, triage.
9. On April 21, 2015, the Department held the triage and concluded that there was no evidence in Claimant's record to establish good cause for her failure to attend the April 6, 2015 PATH orientation.
10. On April 22, 2015, the Department sent Claimant a Notice of Case Action denying the CDC application for lack of need (Exhibit E).
11. On May 6, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her FIP case and her CDC application.

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).

FIP Case Closure

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 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 (May 2015), 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, the Department sent Claimant a PATH Appointment Notice on March 26, 2015, requiring her to attend an April 6, 2015, PATH orientation. Because Claimant did not attend 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, including an unplanned event or factor. BEM 233A, p. 4. If the client does not attend the triage, the Department must hold the triage and determine good cause based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9.

Claimant did not attend the triage. The Department testified that the triage was held without Claimant. The Department testified that because there was no evidence in Claimant's file explaining her nonattendance at the PATH orientation, it concluded that she did not have good cause for her noncompliance (Exhibit D). At the hearing, Claimant alleged that she had provided the Department with documentation from her doctor that she would be unable to work for three months following her son's [REDACTED] birth. The Department testified that it did not have any such documentation in its files and noted that, at the time Claimant was referred to the PATH orientation on April 6, 2015, her child was more than [REDACTED]. Therefore, even if the documentation existed, it would not support a finding of good cause for the nonattendance.

At the hearing, Claimant testified that she did not receive the March 26, 2015, PATH Appointment Notice or the April 14, 2015, Notice of Noncompliance. She acknowledged that the notices were sent to her address of record and received at that address but explained that she personally did not receive the notices because, after the Department had improperly closed her FIP case in February 2015, she had found employment with a temporary staffing agency on the other side of town and was living with a relative during the period the notices were sent to her address of record. The Department testified that Claimant had not advised it of any address changes, even when she came into the office to resolve the issue of her February 2015 and March 2015 FIP case closure. Based on the evidence presented, where Claimant did not advise the Department of any address changes and the notices were sent to, and received at, Claimant's address of record with the Department, Claimant is deemed to have received

the notices sent to her address of record and her failure to timely retrieve the notices was within her control and not an unplanned factor or event. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976) (providing that a client is presumed to have received correspondence sent in a business's ordinary course of business). Therefore, Claimant lacked good cause for her noncompliance and her failure to attend the triage.

Because this was Claimant's first occurrence of noncompliance, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum. BEM 233A, p. 8.

Denial of CDC Application

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

At the hearing, Claimant clarified that she disputed the Department's denial of her April 14, 2015, CDC application. The Department testified that the application was denied for lack of need. (Exhibit E). In order to be eligible for CDC benefits, a client must have a need for such benefits. BEM 703 (November 2014), p. 1. There are four valid CDC need reasons: (i) family preservation, (ii) high school completion; (iii) an activity approved by the Department or the Michigan Works Association (MWA); and (iv) employment. BEM 703, p. 4.

In this case, the Department testified that the need reason for CDC benefits identified on the April 14, 2015, CDC application was participation in PATH activities. A review of the application shows that Claimant identified a need for CDC based not only on approved education/training/employment preparation but also work. However, when asked to identify job income in the application, Claimant indicated that no such income was received. She did not provide any information to explain her employment circumstances in the section of the application for additional information. Based on the information in the application, the Department could properly conclude that the need for CDC benefits was based on approved activities, not employment.

In this case, Claimant's application was filed after she had failed to attend the PATH orientation and the same day she was advised that her FIP case would close effective May 1, 2015, for failure to comply with employment-related activities. As such, Claimant had not engaged in PATH activities and, due to the pending closure of her case, would not be sent to PATH. Therefore, the Department properly concluded that she lacked a need for CDC benefits due to approved activities. Therefore, the Department acted in

accordance with Department policies when it denied Claimant's April 14, 2015, CDC application.

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 (i) closed Claimant's FIP case and applied a three-month FIP sanction and (ii) denied her April 14, 2015, CDC application.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/24/2015**

Date Mailed: **6/24/2015**

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]
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