

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-008091
Issue No.: 1008
Case No.: ██████████
Hearing Date: June 24, 2015
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's witness/spouse, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ ██████████, Partnership. Accountability. Training. Hope. (PATH) program/Family Independence Specialist worker.

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's 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 16, 2015, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 28, 2015. Exhibit A, pp. 4-5.
3. Claimant testified that she never received the Notice of Noncompliance.

4. On April 16, 2015, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective May 1, 2015, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 6-7.
5. On April 28, 2015, Claimant failed to attend her triage appointment and the Department was uncertain if it reviewed Claimant's case file to determine if there was any good cause reason for her non-compliance.
6. On May 12, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit A, p. 2.

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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1. As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (October 2014), p. 1. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider; failing or refusing to participate in employment and/or self-sufficiency-related activities, etc...See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities,

discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6. 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, pp. 9-10.

In the present case, the Department failed to provide adequate testimony and/or evidence as to why it found Claimant in non-compliance with the PATH program. During the hearing, the Department testified that Claimant's non-compliance was based on following dates from the PATH program: March 29, 2015; April 5, 2015; and April 12, 2015. However, the Department was unclear if the non-compliance was based on a failure to submit and/or timely submit job search logs.

In response, Claimant testified that she was required to submit 20 hours of participation logs each week, which consisted of 16 hours in community service and four hours in job search logs. Claimant testified that she timely submitted her logs for March 29, 2015 and April 5, 2015. However, Claimant testified that she did not timely submit her logs for April 12, 2015, until the following week. Claimant testified that she had personal issues happening with her spouse, which resulted in her moving from one residence to another at the time. The witness confirmed Claimant's apparent good cause reason.

Additionally, Claimant testified that she never received the Notice of Noncompliance dated April 16, 2015; hence, the reason why she did not attend the scheduled triage. Also, the Department was unclear if it reviewed Claimant's case file to determine any good cause for her non-compliance, even though policy states that good cause must be considered even if the client does not attend. See BEM 233A, pp. 9-10. It should be noted that the Department sent Claimant a Medical Needs - PATH form dated April 7, 2015, due to an alleged disability; however, the Department testified that it never received the completed form. See Exhibit A, p. 3.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FIP benefits effective May 1, 2015, in accordance with Department policy. Also, for the reasons stated below, the Department will remove Claimant's first non-compliance and reinstate her FIP benefits effective May 1, 2015.

First, the Department failed to satisfy its burden of showing that Claimant was in non-compliance with the PATH program. The Department's testimony indicated that the non-compliance was based on three weeks of Claimant's participation in the PATH program; however, was unclear as to the specific reasons that led to the non-compliance. See BEM 233A, pp. 2-3. Moreover, Claimant believed the non-compliance was based on her failure to timely submit her log for the week of April 12, 2015; however, she testified that she submitted the log the following week. Ultimately, the Department has the burden to show that Claimant was in non-compliance with the PATH program in which it failed to do in this case.

Second, even if a non-compliance was present in this case, Claimant provided a good cause reason based on an 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. BEM 233A, p. 6. Claimant's unplanned event or factor in this case was personal issues with her spouse, which resulted in her moving from one residence to another at the time. The witness confirmed Claimant's good cause reason for not being able to submit the logs timely. Thus, the undersigned finds that a good cause reason is present in this case.

Third, policy states that 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, pp. 9-10. In the present case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to prove that it conducted a good cause determination in the absence of the Claimant at the time of triage. See BEM 233A, pp. 9-10.

DECISION AND ORDER

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 Claimant's FIP benefits effective May 1, 2015.

Accordingly, the Department's FIP 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 Claimant's first FIP sanction from her case;
2. Reinstate Claimant's FIP case as of May 1, 2015;
3. Recalculate the FIP budget for May 1, 2015, ongoing;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from May 1, 2015, ongoing; and

5. Notify Claimant of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/26/2015**

Date Mailed: **6/26/2015**

EJF/tm

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]