

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-011213
Issue No.: 1008
Case No.: ██████████
Hearing Date: August 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 August 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 ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and sanction the case for a three-month minimum case closure?

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 June 1, 2015, the Department sent Claimant a PATH Appointment Notice, requiring her to attend a PATH orientation on June 8, 2015 (Exhibit A).
3. Claimant went to the PATH orientation but did not stay.
4. On June 19, 2015, the Department sent Claimant (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage June 30, 2015, and (ii) a Notice of Case Action notifying her that her FIP case was closing effective July 1, 2015, for a three-month minimum because she had failed to comply with her employment-related activities (Exhibits B and D).

5. Claimant participated in the June 30, 2015, triage.
6. The Department concluded that Claimant did not have good cause for her noncompliance.
7. On June 24, 2015, Claimant requested a hearing disputing the Department's actions concerning her FIP case.

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 June 19, 2015 Notice of Case Action notified Claimant that her FIP case was closing because she had failed to comply with employment-related activities. 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 (July 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 testified that the noncompliance at issue is Claimant's failure to attend the June 8, 2015 PATH orientation appointment. Claimant testified that she went to the June 8 orientation but admitted that she did not complete it. Because Claimant did not complete 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. BEM 233A, p. 4.

In this case, Claimant participated in the triage and testified that when she went to the PATH orientation, she explained to the worker that she could not complete the PATH orientation because she had to go to class and because she had found employment and had to attend job training. According to Claimant, she was advised by PATH to return the following week with documentation. She testified that she did so but was then advised that she had to contact her Department worker to determine who her PATH worker was in order for the documents to be reviewed by the appropriate party. Department policy requires PATH case managers to record and monitor the clients' assigned activities and actual participation in activities. BEM 230A, pp. 1, 21. Claimant testified that she called her Department worker and the worker's supervisor for information concerning her PATH worker multiple times but never received a response.

In its hearing summary and in the triage results form (Exhibit C), the Department denied Claimant's good cause explanation because her activities had not been approved by PATH. However, Claimant testified she was trying to get the activities reviewed and approved but needed to find out who her PATH case worker was from her Department worker; her worker failed to respond to her requests for assistance. At the hearing, the Department was unable to explain how Claimant should proceed to get her activities approved for PATH purposes.

Under the evidence in this case, where Claimant appeared at the PATH orientation, was advised to provide documentation, and did not receive any assistance from the Department in her attempts to identify the PATH case manager who could approve and monitor her activities, the Administrative Law Judge finds that the Department did not act in accordance with Department policy when it concluded that Claimant lacked good cause for her noncompliance and closed her FIP case.

Claimant should be aware that, once her activities are reviewed, she will be required to comply with assigned activities or face a future noncompliance 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 FIP sanction applied to Claimant's record on or about July 1, 2015;
2. Reinstate Claimant's FIP case effective July 1, 2015;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from July 1, 2015, ongoing.



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

Date Signed: **8/24/2015**

Date Mailed: **8/24/2015**

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]