

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-014911
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: October 8, 2015
County: WAYNE (41) Fort Wayne

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 three-way telephone hearing was held on October 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department or MDHHS) included [REDACTED], Hearing Liaison; and [REDACTED], Career Coach from the Partnership. Accountability. Training. Hope. (PATH) program.

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. The Department indicated that Claimant was in non-compliance with the PATH program because it could not verify Claimant's proof of job search activities for the week of June 28, 2015, to July 4, 2015.
3. On July 7, 2015, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on July 13, 2015. Exhibit A, pp. 4-5.

4. On July 7, 2015, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective August 1, 2015, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 6-10.
5. On July 13, 2015, Claimant attended her triage appointment; and the Department found no good cause for her non-compliance.
6. On August 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 (July 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 (May 2015), p. 2. 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.

Additionally, there are minimum numbers of hours per week on average that a WEI is to participate in work-related activities in order to meet the federal work participation requirement. BEM 228 (July 2013), p. 14. In the present case, Claimant fell under the single-parent household – 30-hour requirement. See BEM 228, pp. 14-15 (A FIP group containing only one WEI parent when the youngest child in the group is six years old or greater has a 30-hour requirement).

In this case, on or around July 6th, 2015, the Department's witness testified that she reviewed Claimant's job search logs for the week of June 28, 2015, to July 4, 2015. The Department's witness testified that it randomly reviewed two potential employers that Claimant listed as jobs she applied for in person. See Exhibit A, p. 11 (PATH program notes). Upon attempting to verify the first potential employer, the Department's witness testified that this location did not exist; and the phone number Claimant provided in the job search log was disconnected. See Exhibit A, p. 11. As to the second potential employer, the Department's witness testified that this location only accepts online applications; and in-person applications were not possible, even though Claimant listed this application as in-person. See Exhibit A, p. 11. Thus, the Department's witness argued that Claimant is in non-compliance with the PATH program due to the submission of unverifiable job search logs.

In response, Claimant testified that she always met her 30-hours-of-participation logs each week. Claimant testified that she could not recall the two specific employers the Department's witness referred to. However, Claimant testified that if she listed those employers in the job search log as in-person applications, then she indeed did apply for them.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that Claimant was in non-compliance with the PATH program. The Department did not present sufficient supporting documentation to show that Claimant was in non-compliance with the PATH program, other than the PATH program notes/testimony by the Department's witness. See Exhibit A, p. 11. However, this evidence failed to show by a preponderance of evidence that Claimant is in non-compliance with the PATH program based on the submission of unverifiable job search logs. See Exhibit A, p. 11. In fact, the Department did not even present the undersigned a copy of the actual job search logs in dispute. Ultimately, the Department has the burden to show that Claimant was in non-compliance with the PATH program; and the undersigned concludes that the Department failed to do in this case. As such, the Department will remove Claimant's first non-compliance and reinstate her FIP benefits effective August 1, 2015.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP benefits effective August 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 August 1, 2015;
3. Recalculate the FIP budget for August 1, 2015, ongoing;
4. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from August 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 Mailed: **10/13/2015**

EJF/jaf

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:

