

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-015433
Issue No.: PATH
Case No.: [REDACTED]
Hearing Date: October 08, 2015
County: KENT-DISTRICT 1
(FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on October 08, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Case Manager) and [REDACTED] (Career Coach).

ISSUE

Did the Department of Health and Human Services (Department) properly sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with the Partnership Accountability Training Hope (PATH) program?

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 was an ongoing Family Independence Program (FIP) and Food Assistance Program (FAP) recipient and the Department had referred her to the Partnership. Accountability. Training. Hope. (PATH) program as a condition of receiving benefits.
2. On June 15, 2015, the Claimant received an orientation to the Partnership. Accountability. Training. Hope. (PATH) program.
3. On July 22, 2015, the Department notified the Claimant that she was scheduled to attend a reengagement appointment on July 29, 2015.
4. The Claimant did not attend the July 29, 2015, reengagement appointment.

5. On August 3, 2015, the Department sent the Claimant notice that it would sanction her Family Independence Program (FIP) and Food Assistance Program (FAP) benefits as of September 1, 2015.
6. On August 3, 2015, the Department sent the Claimant a Notice of Noncompliance (DHS-2444).
7. On August 12, 2015, the Department conducted a triage meeting where the Claimant was given an opportunity to establish good cause for her noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.
8. On August 17, 2015, the Department received the Claimant's request for a hearing protesting the Family Independence Program (FIP) sanction.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2015), p 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, pp 2-3.

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. BEM 233A, p4.

Good cause includes the following:

- Illness or Injury: The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.
- 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. Unplanned events or factors include, but are not limited to, the following:
 - Domestic violence.
 - Health or safety risk.
 - Religion.
 - Homelessness.
 - Jail.
 - Hospitalization.
- BEM 233A, pp 4-6.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. 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. BEM 233A, p 10.

The Department will 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, pp 9-10.

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

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).

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, p 1.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 3.

In this case, the Claimant was an ongoing FIP and FAP recipient. The Department found the Claimant to be a WEI and referred her to the PATH program as a condition of receiving continuing benefits after receiving an orientation to the requirements of the PATH program on June 15, 2015. After observing that the Claimant's performance in the PATH program was not up to expectations, the Department scheduled a

reengagement appointment on July 29, 2015. The Claimant did not attend the July 29, 2015, meeting. On August 3, 2015, the Department sent the Claimant notice that it would sanction her FIP benefits as of September 1, 2015, unless she was able to establish good cause for her noncompliance. On August 3, 2015, the Department sent the Claimant a Notice of Noncompliance and on August 12, 2015, the Department conducted a triage meeting where the Claimant had the opportunity to establish good cause. The Claimant failed to attend the August 12, 2015, triage meeting. The Department then proceeded to sanction the Claimant's FIP and FAP benefits.

The Claimant argued that she did not receive the July 29, 2015 notice reengagement appointment until after the appointment date had already passed.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the Department presented substantial evidence that it notified the Claimant of the reengagement appointment by mail and the Claimant failed to rebut the presumption of receipt.

The Claimant argued that she was unable to attend the triage meeting due to a medical appointment.

No evidence was presented on the record that the Claimant notified the Department that she would be unable to attend the triage meeting before August 13, 2015, or that she attempted to reschedule the meeting, or participate by telephone.

The Claimant argued that she had good cause for her noncompliance with the PATH program due to complication with her pregnancy and her brother's hospitalization for an accident.

The Claimant was noncompliant with the PATH program when she failed to attend the July 29, 2015, reengagement appointment. The evidence presented on the record does not support a finding that the Claimant had a medical condition that prevented her from attending the July 29, 2015, reengagement appointment. The evidence presented on the record does not support a finding that the brother's hospitalization prevented the Claimant from attending the July 29, 2015, reengagement appointment.


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 sanctioned the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits due to her

noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program without good cause.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/13/2015**

Date Mailed: **10/13/2015**

KS/■

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

