

**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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MAHS Reg. No.: 15-018887
Issue No.: 1008
Agency Case No.: ██████████
Hearing Date: December 02, 2015
County: Wayne-District 49
(Grand River/War)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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 December 2, 2015, from Detroit, Michigan. Petitioner and her husband ██████████ appeared and testified. The Department of Health and Human Services (Department) was represented by Rodney Turner, Eligibility Specialist, and ██████████, manager at the ██████████ agency that served as the Department's PATH provider.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of FIP benefits.
2. Petitioner's husband is disabled and is deferred from the PATH program due to his disability.
3. On August 17, 2015, Petitioner submitted a Medical Needs – PATH form indicating that she was needed in the home 9 hours daily to assist her husband with bathing, grooming, dressing, taking medications, meal preparation, shopping, laundry, and housework.

4. The Department referred Petitioner to PATH, and she completed the 21 day PATH application eligibility period.
5. Petitioner did not participate in subsequent required PATH activities.
6. On September 23, 2015, the Department sent Petitioner (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage October 1, 2015 and (ii) a Notice of Case Action notifying her that, effective November 1, 2015, her FIP case was closing for a three-month minimum (Exhibits A and B).
7. Petitioner and her husband participated in the triage, explaining that Petitioner could not participate in her FIP activities because she was needed in the home to care for her husband.
8. The Department concluded that Petitioner did not have good cause for her noncompliance (Exhibit D).
9. On October 9, 2015, Petitioner 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 September 23, 2015 Notice of Case Action notified Petitioner that her FIP case was closing effective November 1, 2015 because she had failed to comply with employment-related activities. As a condition of continued FIP eligibility, work eligible individuals (WEIs) 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 WEI is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to participate in employment and/or self-sufficiency-related activities. BEM 233A, p. 2.

In this case, the Department required Petitioner to participate in the PATH program. The evidence showed that Petitioner completed the 21 day application eligibility period but did not comply with her required participation hours (Exhibit D). At their triage and at the hearing, Petitioner and her husband argued that Petitioner was unable to complete her PATH responsibilities because she was needed in the home to care for her husband, who is disabled.

Department policy provides that a person who provides care for a spouse with disabilities living in the home is **not** a WEI and is **not** referred to PATH. Both of the following conditions must be satisfied:

- the disabled spouse lives with the spouse providing care **and**
- a doctor/physician's assistant verifies in writing or by using a DHS-54A, Medical Needs form, or a DHS-54E, Medical Needs-PATH form that
 - the disabled spouse requires a caretaker due to the extent of the disability;
 - the caretaker spouse is needed in the home to provide care; and
 - the caretaker spouse cannot engage in employment-related activities due to the extent of care required.

BEM 230A, pp. 23, 16-18.

In this case, the Department acknowledged receiving, on August 17, 2015, the DHS-54E Medical Needs-PATH form completed by Petitioner's husband's doctor indicating that Petitioner's husband had multiple sclerosis and Petitioner was needed to assist her husband with several activities of daily living 9 hours daily (Exhibit C). Based on the doctor's statements, Petitioner would be required to provide 9 hours of assistance daily to her husband, for a total of 45 hours of assistance each workweek. The activities that Petitioner's husband needed assistance with were ones that would be performed throughout the day. The Department was unable to explain at the hearing why it found this document insufficient to establish that Petitioner was a non-WEI who should not have been referred to PATH. There was no evidence that Petitioner was a voluntary participant in PATH. See BEM 230A, p. 15. Under the facts presented in this case, Petitioner was a non-WEI and was not required to participate in PATH. Accordingly, the Department could not find her in noncompliance with PATH employment activities.

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 Petitioner's FIP case.

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 employment-related sanction applied to Petitioner's record for the period November 1, 2015 to January 31, 2016;
2. Reinstate Petitioner's FIP case effective November 1, 2015; and
3. Issue supplements to Petitioner for FIP benefits she was eligible to receive but did not from November 1, 2015 ongoing.



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

Date Signed: **12/11/2015**

Date Mailed: **12/11/2015**

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]