

**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.: 15-020738  
Issue No.: 1008  
Agency Case No.: [REDACTED]  
Hearing Date: January 4, 2016  
County: WAYNE-DISTRICT 57

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**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 January 4, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

**ISSUE**

Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on Petitioner'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. Petitioner was an ongoing recipient of FIP benefits.
2. Petitioner gave birth to her child on [REDACTED], and she was deferred from the Partnership. Accountability. Training. Hope. (PATH) program until the end of September of 2015.
3. On [REDACTED], the Department sent Petitioner a PATH Appointment Notice scheduling Petitioner for an appointment on [REDACTED]. Exhibit A, p. 8.

4. On an unspecified date, Petitioner contacted the Department and/or PATH program and informed that she was sick and inquired whether her appointment could be rescheduled. See Exhibit A, p. 1.
5. On [REDACTED], the Department sent Petitioner another PATH Appointment Notice rescheduling Petitioner for an appointment on [REDACTED]. Exhibit A, p. 8.
6. Petitioner did not attend her scheduled appointment.
7. Petitioner claimed that she contacted her PATH program prior to her appointment on [REDACTED], and informed them that she could not attend because she already had a Women, Infants, and Children (WIC) appointment scheduled that same day.
8. On [REDACTED] the Department mailed Petitioner a Notice of Noncompliance scheduling her for a triage appointment on November 6, 2015. Exhibit A, pp. 10-11.
9. On [REDACTED], the Department sent Petitioner a Notice of Case Action closing her FIP case, effective [REDACTED], based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 4-7.
10. On [REDACTED], Petitioner attended her triage appointment; however, the Department still determined no good cause for her non-compliance. See Exhibit A, p. 1.
11. On [REDACTED] Petitioner filed a hearing request, protesting the FIP case closure. See Exhibit A, pp. 2-3.

### **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 (October 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, 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.

All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. BEM 230A, p. 4. WEIs who are temporarily deferred are required to participate in activities that will help them overcome barriers and prepare them for employment or referral to an employment service provider. BEM 230A, p. 4.

Most WEIs are referred to PATH provided by the one-stop service center serving the client's area when one of the following exists:

- A WEI applies for FIP.
- A WEI applies to be a member added to a FIP group.
- A WEI is no longer temporarily deferred from employment services.

BEM 230A, p. 4.

The last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. BEM 230A, p. 5. If the client calls to reschedule before the 15th day, extend the Last Date for Client Contact on OSMIS. BEM 230A, p. 5. Either MDHHS or the one-stop service center have the capability of extending this date. BEM 230A, p. 5.

In the present case, Petitioner was referred to PATH after her temporary deferral ended due to the care of a child or post-partum recovery. See BEM 230A, p. 8 (Disregard one parent of a child under the age of two months up to two months when the newborn is in the home. Disregard a mother for post-partum recovery up to two months after giving birth even when the newborn is not in the home (for example, removed by Childrens' Protective Services, adoption)). As such, on [REDACTED], the Department sent Petitioner a PATH Appointment Notice scheduling Petitioner for an appointment on [REDACTED]. Exhibit A, p. 8. On an unspecified date, Petitioner contacted the Department and/or PATH program and informed that she was sick and whether her appointment could be rescheduled. See Exhibit A, p. 1.

On [REDACTED], the Department sent Petitioner another PATH Appointment Notice rescheduling Petitioner for an appointment on [REDACTED]. Exhibit A, p. 8. Petitioner did not attend her scheduled appointment and the Department found her to be in non-compliance.

At the triage, the Department testified that it was informed by Petitioner she had a WIC appointment and went there instead of her PATH appointment. See Exhibit A, p. 1. The Department testified that no good cause was given since it was a second appointment. See Exhibit A, p. 1. The Department did not dispute that Petitioner had a [REDACTED] appointment the same day as her PATH appointment scheduled on [REDACTED].

At the hearing, Petitioner testified that her [REDACTED] appointment was scheduled three to four weeks in advance and was unsure why she did not reschedule it when she received notification of her rescheduled PATH appointment. Petitioner testified that the [REDACTED] appointment was scheduled within a couple of hours of her PATH appointment. See Exhibit A, p. 9. At that moment, Petitioner testified that it was a priority for her to attend her [REDACTED] appointment because she only had a couple of bottles of formula left for her daughter and [REDACTED] provides assistance to her for such supplies. Prior to her rescheduled appointment, Petitioner testified that she called the PATH program to see if she could again reschedule her appointment. Petitioner testified that the PATH program informed her to come the following Monday, [REDACTED], to attend. However, Petitioner testified that she came to the PATH program the week prior and discovered that she had already been in non-compliance. The Department worker present for the hearing could not rebut Petitioner's testimony that she called to reschedule her appointment again.

It should be noted that Petitioner testified that she spoke to her Department worker, who told her that she is supposed to call her (the Department worker), not the PATH program, to reschedule her appointment. See Exhibit A, p. 9 (PATH Appointment Notice states that if she cannot keep the appointment that she should call her DHS specialist before she misses her appointment). Petitioner's testimony appeared to indicate that this conversation took place after her rescheduled appointment on [REDACTED].

██████████ and that Petitioner only called the PATH program before ██████████, to reschedule her appointment.

Based on the foregoing information and evidence, the Department improperly closed Petitioner's FIP benefits effective ██████████. The undersigned finds that there is no non-compliance present in this case. The undersigned finds that Petitioner credibly testified that she informed the PATH program before her rescheduled appointment that she could not attend due to her previously scheduled appointment with ██████████. Petitioner's credibility is supported by the fact that the Department worker did not dispute she had a ██████████ appointment scheduled the same day as her PATH appointment as well as the Department worker did not rebut Petitioner's testimony that she called to reschedule her appointment scheduled on ██████████.

Additionally, policy states that the Department ensures the client understands her responsibility to participate in employment-related activities including, but not limited to, calling before they are unable to attend a meeting or appointment and before they become noncompliant. BEM 229 (October 2015), p. 3. Policy further states that the last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. BEM 230A, p. 5. If the client calls to reschedule before the 15th day, extend the Last Date for Client Contact on One-Stop Management Information System (OSMIS). BEM 230A, p. 5. Either MDHHS or the one-stop service center have the capability of extending this date. BEM 230A, p. 5.

In the present case, the undersigned finds Petitioner credible that she contacted the PATH program before she was unable to attend her rescheduled appointment on ██████████. Yes, the undersigned understands that the Department had already rescheduled this appointment and that she contacted the PATH program, not her Department worker to reschedule her appointment. However, as stated above, policy states that the Department ensures the client understands her responsibility to participate in employment-related activities including, but not limited to, calling before they are unable to attend a meeting or appointment and before they become noncompliant. BEM 229, p. 3. In this case, Petitioner responsibly contacted the PATH program before she was unable to attend her rescheduled appointment. See BEM 229, p. 3. The Department could have extended the Last Date for Client Contact on OSMIS as indicated in BEM 230A, p. 5.

It should be noted that if a non-compliance was present in this case, Petitioner also provided a good cause reason. 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. Petitioner's unplanned event or factor for missing the scheduled PATH appointment was the fact that she was limited in her daughter's formula, for which she had to attend the WIC appointment versus the PATH appointment in order to obtain those supplies. See BEM 233A, p. 6. Nonetheless, a

non-compliance is not present in this case and the Department will remove Petitioner's non-compliance and reinstate her FIP benefits.

**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 Petitioner's FIP benefits effective [REDACTED].

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 Petitioner's first FIP sanction from her case;
2. Reinstate Petitioner's FIP case as of [REDACTED];
3. Recalculate the FIP budget for [REDACTED], ongoing;
4. Issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
5. Notify Petitioner of its decision.



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

Date Signed: **1/5/2016**

Date Mailed: **1/5/2016**

EF / hw

**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:

