

**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.: 15-022148
Issue No.: 1008; 3000
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: WAYNE-DISTRICT 31
(GRANDMONT)

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 hearing was held on January 20, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], PATH Worker, and [REDACTED], Access PATH Case Worker.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) due to noncompliance with employment-related activities?

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 was meeting her PATH requirements through her employment.
3. On August 14, 2015, Michigan Works, the PATH provider, notified Petitioner that she was required to reengage with Michigan Works to establish that she could continue to meet her PATH requirements through employment (Exhibit A).
4. On October 2, 2015, Michigan Works sent Petitioner a non-compliance warning letter requiring her to attend a reengagement appointment on October 9, 2015, (Exhibit A).
5. Petitioner did not attend the reengagement.

6. On October 12, 2015, the Department sent Petitioner a Notice of Noncompliance notifying her that she was not in compliance with her employment-related activities and scheduling a triage appointment on October 21, 2015, (Exhibit B).
7. Petitioner did not attend the triage, and the Department concluded that she had no good cause of her noncompliance (Exhibit C).
8. The Department did not send Petitioner a Notice of Case Action advising her of her FIP case closure.
9. Effective November 1, 2015, the Department closed Petitioner's FIP case for a six-month period based on a second occurrence of noncompliance with employment activities (Exhibit F).
10. On November 24, 2015, the Department received Petitioner's request for hearing concerning her FIP and Food Assistance Program (FAP) cases.

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).

Petitioner requested a hearing concerning her FIP and FAP cases but testified at the hearing that her FAP issue was resolved and she did not wish to proceed with the hearing concerning FAP. Accordingly, the hearing request is dismissed with respect to FAP. The hearing proceeded to address Petitioner's concerns regarding the closure of her FIP case.

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.

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 (October 2015), p. 1; BEM 233A (May 2015), p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

The Department testified that Petitioner's FIP case closed because she had failed to attend an appointment with Michigan Works. The Michigan Works case worker testified that Petitioner had been relieved of participating in employment-related activities for a six-month

period due to her employment. However, she was required to report any changes in employment and to reengage with Michigan Works after the six-month period expired to reestablish her ongoing eligibility to use her employment to satisfy her PATH requirements. According to the Michigan Works case notes, the Michigan Works worker sent Petitioner a retention letter on August 14, 2015, after the six-month period expired and a noncompliance warning letter on October 2, 2015, requiring her to appear for a re-engagement appointment on October 9, 2015. Petitioner did not appear at the October 9, 2015 appointment. Therefore, Petitioner did not comply with her employment-related activities.

Before terminating a client from the work participation program and closing her FIP case, the Department must send the client a Notice of Noncompliance, notifying her of the noncompliance and scheduling 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. Good cause may be verified by information already on file with the Department or PATH. BEM 233A, p. 9.

After Petitioner failed to appear at the reengagement appointment, the Department sent her a Notice of Noncompliance on October 12, 2015, scheduling an October 21, 2015, triage. This letter was sent to Petitioner at her [REDACTED] address. Petitioner did not attend the triage, and the Department found no good cause for her noncompliance.

Petitioner admitted she did not attend the October 9, 2015, reengagement appointment or the October 21, 2015, triage. At the hearing, she explained that she did not receive either of those notices and, once aware that she was not receiving her mail, concluded that she had mail issues. Accordingly, she changed her mailing address with the Department from her [REDACTED] address, her residence, to her mother's address. However, she did not change the address until November 2, 2015, after the reengagement letter and Notice of Noncompliance were sent to her. Therefore, the Department properly sent the Notice of Noncompliance to Petitioner at her address of record, and, based on the evidence before it at the triage, it had no reason to be aware that Petitioner had mail issues and did not receive the reengagement letter.

However, before closing a client's case, the Department must send the client a Notice of Case Action that provides the reason for the action. BAM 220 (October 2015), pp. 1-6. No notice of case action was included in the hearing packet presented by the Department. The Department testified that no notice of case action advising Petitioner of the closure of her FIP case and the reasons for the closure was sent to Petitioner. Timely written notice of a negative action closing a client's case must be sent at least 11 days before the effective date of the closure in order to give the client a chance to react to the proposed action. BAM 220, pp. 2-6, 10; see also BAM 600 (October 2015), p. 1. The references in the Department policy concerning noncompliance with employment-related activities references the negative action period and, as such, anticipates that a notice of case action has been sent. See BEM 233A, pp. 9, 11, 13. A client's right to

have benefits continue pending the hearing if the hearing request is timely submitted is also tied to the date a notice of case action is sent. BAM 600, p. 24. By failing to timely notify Petitioner of the closure of her FIP case, the Department did not act in accordance with policy.

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 failed to timely notify Petitioner of the FIP case closure.

DECISION AND ORDER

Pursuant to Petitioner's withdrawal of her hearing request concerning FAP on the record, the hearing request concerning FAP is **DISMISSED**.

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 the FIP employment-related sanction applied to Petitioner's case on or about November 1, 2015;
2. Reinstate Petitioner's FIP case effective November 1, 2015;
3. Issue supplements to Petitioner from November 1, 2015 ongoing for FIP benefits she was eligible to receive but did not due to the Department's failure to provide timely notice of case closure.



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

Date Mailed: **1/26/2016**

ACE / 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:

