

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

**IN THE MATTER OF:**



MAHS Reg. No.: 15-023448  
Issue No.: 1008  
Agency Case No.: [REDACTED]  
Hearing Date: January 28, 2016  
County: KENT

**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 January 28, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department).

**ISSUE**

Whether the Department of Health and Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with employment and/or self-sufficiency related activities?

**FINDINGS OF FACT**

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

1. The Claimant was on ongoing Family Independence Program (FIP) recipient after being previously deferred from the Partnership. Accountability. Training. Hope. (PATH) program due to her pregnancy.
2. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits with a start date of November 9, 2015.
3. The Claimant was noncompliant with the PATH program when she failed to attend her assigned programming.
4. The Department conducted a triage meeting on January 6, 2015.

5. On November 21, 2015, the Department notified the Claimant that it would sanction her FIP benefits as of January 1, 2015.
6. The Department received the Claimant's request for a hearing on December 16, 2015, protesting the sanctioning of her FIP benefits.
7. The Claimant attended a pre-hearing conference on December 28, 2015.

### **CONCLUSIONS OF LAW**

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 Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PATH case managers use the One-Stop Management Information System (OSMIS) to record the clients' assigned activities and participation. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2015), p 1.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p 1.

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.
  - Appear for a scheduled appointment or meeting related to assigned activities.
  - Participate in employment and/or self-sufficiency-related activities.
  - Participate in required activity.

- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (May 1, 2015), 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, pp 3-4.

Good cause should be determined 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 MWA. 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.

Good cause includes the following:

Employed 40 Hours: The person is working at least 40 hours per week on average and earning at least state minimum wage.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction. BEM 233A.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 2.

A noncompliant person must serve a minimum one-month or six-month Food Assistance Program (FAP) disqualification period unless one of the criteria for ending a disqualification early exists. BEM 233B, p 10.

The Claimant was an ongoing Family Independence Program (FIP) recipient until January 1, 2016, and the Department had mandated participation in the PATH program

as a condition of receiving FIP benefits after previously deferring this participation due to a pregnancy. The Claimant was noncompliant with the PATH program when she failed to attend the PATH program on November 9, 2015. The Department conducted a triage meeting on January 6, 2016, where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. At the hearing, the Department did not have any records of his triage meeting except that the Claimant was sent written notice of the meeting on December 29, 2015. On November 21, 2015, the Department notified the Claimant that it would sanction her FIP benefits as of January 1, 2016.

The Claimant testified that she was unable to attend the PATH program on November 9, 2015, because she had started employment.

The Claimant's testimony includes information that could be considered good cause under Department policy. The Department presented no records supporting its finding that the Claimant did not have good cause.

This Administrative Law Judge finds that the Claimant has demonstrated good cause for her failure to attend the PATH program on November 9, 2015.

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 was not acting in accordance with policy when it sanctioned the Claimant's benefits.

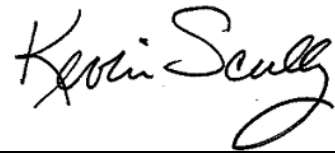
### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was not acting in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the negative action from the Claimant's benefits case file.
2. Initiate a determination of the Claimant's eligibility for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits as of January 1, 2016.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



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

Date Mailed: **2/2/2016**

KS/nr

**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:

