

**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.: 15-023931
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: February 22, 2016
County: WAYNE-DISTRICT 49

ADMINISTRATIVE LAW JUDGE: Jonathan Owens

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 February 22, 2016, from Detroit, Michigan. The Petitioner appeared and represented herself. The Department was represented by Hearing Facilitator, [REDACTED], and Family Independence Specialist, [REDACTED].

ISSUE

Did the Department properly sanction the Petitioner's Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. On November 17, 2015, the Petitioner was scheduled to attend a PATH appointment.
2. On November 17, 2015, the Petitioner failed to appear for the appointment.
3. On December 14, 2015, the Petitioner filed a hearing request indicating she was being treated unfairly by the Department because she alleged they had failed to give her another PATH appointment.
4. On December 16, 2015, the Department issued a Notice of Case Action indicating the Petitioner had failed to attend the PATH appointment and her FIP case would be closed, effective January 1, 2016.

5. On December 16, 2015, a Notice of Noncompliance was also issued indicating the Petitioner would be afforded an opportunity to attend a TRIAGE appointment on December 28, 2015 at 9:00 a.m., to provide a good cause reason for missing her PATH appointment.
6. On December 28, 2015, the Department completed the TRIAGE without the Petitioner and determined no good cause existed, which resulted in case closure being allowed to occur as of January 1, 2015.

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.

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.

In this case, the Petitioner had been sent a PATH appointment notice for November 17, 2015, at 12:30 p.m. This appointment notice indicated the Petitioner had 15 days after November 17, 2015 to attend the PATH appointment, if she missed the scheduled appointment date and time. The Petitioner testified she had mistakenly went on November 18, 2015, and not on November 17, 2015, as instructed on the notice. The Petitioner testified she contacted the Department for a new appointment notice after allegedly being told she was too late to participate on November 18, 2015. The presented no evidence to support this alleged Department contact.

The Department sent a notice of noncompliance and issued a TRIAGE appointment for December 28, 2015, prior to the scheduled closure of the Petitioner's FIP case. The Petitioner admitted she did not attend the TRIAGE appointment. The Petitioner testified she had called the Department indicating she was in the hospital on December 28, 2015, and she was unable to attend the appointment. The Petitioner's initial testimony

was that she called her worker on the date in question prior to the TRIAGE appointment time. However, the Petitioner's worker testified that he was off on December 28, 2015, and the TRIAGE was being conducted by other Department employees. He indicated that when he returned to work he had no phone messages from the Petitioner. The Petitioner then stated she spoke to a woman and a man on the date in question. The Petitioner presented an emergency room discharge which indicated she had been discharged from the emergency room on December 28, 2015, after 4:00 p.m. The paperwork provided by the Petitioner failed to indicate when the Petitioner first arrived or was first seen in the emergency room. The Petitioner testified she had been in the hospital when she called the Department on December 28, 2015.

When reviewing this matter, this Administrative Law Judge finds the Petitioner has failed to support her assertions with any supporting evidence. The documentation provided indicates the Petitioner had 15 days to complete her appointment. The Petitioner provided no evidence regarding the alleged denial by PATH to allow her to attend during the 15 day window. The Petitioner simply alleges the Department failed to send her a new appointment after her failure to attend the original appointment.

A noncompliance can be 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.

In this case, the Petitioner admitted she mistakenly went to PATH on the wrong date. There was no basis for granting or excusing her for missing the appointment. The Department testified that even though the Petitioner had failed to appear for the TRIAGE, it did, in fact, review the case and determined no good cause for the missed appointment.

Based upon the above, this Administrative Law Judge finds the Petitioner's alleged inability to participate in the TRIAGE as scheduled had no impact the outcome. The basis for missing the PATH appointment, as testified to at hearing, would have been an unacceptable basis for good cause being granted. Further, it should be noted the only evidence of contact made by the Petitioner following the missed PATH appointment was the hearing request she filed. The Petitioner again failed to support her assertions with any evidence that would undermine the evidence presented by the Department.

Therefore, this Administrative Law Judge finds the Department properly determined the Petitioner had no good cause for missing the PATH appointment, and properly sanctioned her FIP benefits according to policy.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Jonathan Owens
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/23/2016**

Date Mailed: **2/23/2016**

JWO/tm

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:

