

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022367
Issue No.: PATH
Agency Case No.: [REDACTED]
Hearing Date: January 19, 2016
County: LAPEER

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 19, 2016, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Specialist [REDACTED] and Hearing Facilitator [REDACTED].

ISSUES

Did the Department properly sanction Claimant's Family Independence Program (FIP) for noncompliance with the Partnership, Accountability, Training, Hope (PATH) program?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Family Independence Program (FIP) benefits. Participation in Partnership, Accountability, Training, Hope (PATH) is an eligibility requirement for Claimants to receive benefits under these programs.
- (2) On October 12, 2015, Claimant was sent a PATH Appointment Notice (DHS-4785) which required [REDACTED] [REDACTED] to attend PATH.
- (3) On October 26, 2015, [REDACTED] [REDACTED] stopped attending PATH.
- (4) On October 29, 2015, Claimant reported that [REDACTED] had moved out of the household.

- (5) On November 8, 2015, [REDACTED] had moved back into the household.
- (6) On November 23, 2015, Claimant was sent a Notice of Non-Compliance (DHS-2444) regarding [REDACTED] failure to participate in PATH and scheduled a triage meeting for December 3, 2015. Claimant was also sent a Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) would be sanctioned beginning January 1, 2016.
- (7) On December 2, 2015, Claimant submitted a request for hearing.

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.

Bridges Eligibility Manual (BEM) 233A Failure To Meet Employment and/or Self-Sufficiency Related Requirements: FIP, provides guidance for administration of the Partnership, Accountability, Training, Hope (PATH) program. The policy identifies participation requirements, actions that are noncompliant, the consequences of noncompliance, and the definition of good cause for noncompliance.

Noncompliance of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- Failing or refusing to:
 - Appear and participate with Partnership, Accountability, Training, Hope (PATH) or other employment service provider.
 - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - Develop a Family Self-Sufficiency Plan (FSSP).
 - Comply with activities assigned on the FSSP.
 - Provide legitimate documentation of work participation.
 - Appear for a scheduled appointment or meeting related to assigned activities.

- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

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.

The Department alleged that Claimant's Family Independence Program (FIP) should be sanctioned because [REDACTED] [REDACTED] was noncompliant and she was a member of Claimant's household. Claimant does not dispute that did not attend PATH. Claimant testified that: [REDACTED] is his wife; [REDACTED] had a drug problem; he let [REDACTED] move back in because he thought she had cleaned up; [REDACTED] left the household again on October 29, 2015; [REDACTED] moved back into the household on November 8, 2015; and that [REDACTED] has left the household again since then.

Bridges Eligibility Manual (BEM) 233A at page 14 provides:

Noncompliant Member Leaves The Home

If the noncompliant member leaves the home before issuing a DHS-2444, Notice of Noncompliance, do not act on the closure. Enter a good cause reason for the pending noncompliance in Bridges.

If the noncompliant member leaves the home after Bridges closes the FIP EDG due to the noncompliance, the noncompliant member takes his/her individual penalty sanction and counter with him/her to a new group. The original group may reapply for FIP as there is no longer a noncompliant individual serving a current sanction in the group.

If it is reported to the department that the parent who affected the FIP EDG closure is out of the home and a new DHS-1171 is submitted, request a Front End Eligibility (FEE) investigation from the Office of Inspector General (OIG) to complete a home visit to verify the parent is out of the home. Do not determine eligibility on the pending FIP EDG until the FEE agent completes an investigation.

Document the results of the home visit in the case file and in Bridges case comments.

If the noncompliant individual who is currently serving a sanction is eligible for FIP in a new group, the new group must serve the sanction.

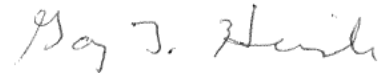
The time sequence in this case is reiterated:

October 26, 2015, [REDACTED] became noncompliant.
October 29, 2015, [REDACTED] moved out.
November 8, 2015, [REDACTED] moved back in.
November 23, 2015, [REDACTED] was still in the household and the Notice of Noncompliance (DHS-2444) was sent.

Bridges Eligibility Manual (BEM) 210 FIP Group Composition, at page 3, provides that a temporarily absent person is considered to be living in the home when the absence has lasted 30 days or less. [REDACTED] was still a member of the household when the Notice of Noncompliance (DHS-2444) was sent on November 23, 2015. For that reason the sanction is properly attached to [REDACTED] and the Department's November 23, 2015 determination to sanction Claimant's Family Independence Program (FIP) is in accordance with Department policy. It was explained to Claimant that if [REDACTED] has left the household permanently, he can reapply as described above.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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

GH/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 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:

