

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

**IN THE MATTER OF:**

████████████████████  
████████████████████  
████████████████████

MAHS Reg. No.: 15-022262  
Issue No.: 1008  
Agency Case No.: ██████████  
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 telephone hearing was held on January 20, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. Her mother, ██████████, appeared as her witness. The Department of Health and Human Services (Department) was represented by ██████████, Assistance Payment Worker; Everett Stephenson, PATH Coordinator; and ██████████, Michigan Works Case Worker.

**ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) case for failure to comply 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 a mandatory PATH participant.
3. On September 28, 2015, Petitioner contacted her PATH worker to let her know that she was hospitalized and was advised that she should have the hospital fax over a note (Exhibit A).

4. On September 30, Michigan Works received a letter from [REDACTED] on [REDACTED] letterhead dated September 30, 2105 signed by a doctor stating as follows:

To Whom It May Concern:

This letter is to inform you and verify that [Petitioner] was admitted as a patient at [REDACTED] from 9/25/15 to 09/30/15 under my care.

Due to her acute medical issues, [Petitioner] will be able to return to her regular work duties on

Thank you for your consideration.

(Exhibit F.)

5. Petitioner's Michigan Works case worker made many attempts to contact Petitioner and [REDACTED] to obtain clarification of the return date, which was left blank on the letter.
6. On October 14, 2015, [REDACTED] refaxed to Michigan Works the same letter it had faxed on September 30, 2015, with no return date.
7. On October 27, 2015, the Department sent Petitioner (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage on November 4, 2015 and (ii) a Notice of Case Action notifying her that her FIP case was closing effective December 1, 2015 for a three-month minimum because of her noncompliance with employment-related activities (Exhibits C and E).
8. Petitioner did not attend the November 4, 2015 triage; the Department concluded that she did not have good cause for her noncompliance.
9. On November 23, 2015, Petitioner requested a hearing disputing the Department's actions concerning her FIP case.

### **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.

Petitioner requested a hearing disputing the closure of her FIP case. At the hearing, Petitioner testified that she was also disputing the reduction in her Food Assistance Program (FAP) benefits. Although there was a brief discussion of the FAP issue on the record, a more thorough review of the hearing request shows that the only issue raised by Petitioner was the closure of her FIP case. Accordingly, the issue presented is limited to the FIP case closure.

The October 27, 2015 Notice of Case Action notified Petitioner that her FIP case was closing because she had failed to comply with employment-related activities. 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.

In this case, Michigan Works acknowledged receiving verification from [REDACTED] on October 1, 2015 that Petitioner was hospitalized from September 25, 2015 through September 30, 2015. However, the verification received did not indicate when Petitioner could return back to work. Department policy provides that an individual with a mental or physical illness, limitation or incapacity expected to last less than three months may be deferred from participation from PATH for up to three months. The short-term incapacity must be verified through a DHS-54A, Medical Needs, or a DHS-54E, Medical Needs-PATH, or other written statement from an M.D./D.O./P.A. BEM 230A (October 2015), p. 11. Petitioner's Michigan Works' case worker made attempts to contact [REDACTED] to obtain a return date but received on October 14, 2015 the same fax it had previously received without a return date. According to the case notes, the worker tried to contact [REDACTED] again on October 16, 2015 for a work return date but was unable to verify the information. The case worker also made unsuccessful attempts to contact Petitioner by phone.

The Michigan Works case notes in Petitioner's case show that the worker concluded that, because she was unable to get [REDACTED] to verify the return date or to contact Petitioner, once 30 days from the date of Petitioner's September 25, 2015 hospital admission expired, Petitioner was in noncompliance with her employment-activities. When a deferral is not granted the Department must inform the individual that she did not meet the criteria for the deferral and will be required to participate in PATH. BEM 230, p. 18. The client must be referred to PATH. BEM 230A, p. 18. When a client loses a deferral, the client must be referred back to PATH pursuant to a written notice. BEM 229 (October 2015), p. 6.

In this case, there was no evidence that Petitioner was advised that her temporary deferral was denied beyond 30 days and that she was referred back to her PATH activities. Petitioner testified that she was under the impression that, because of her hospitalization, her worker had excused her from participation in the PATH program through the month of October 2015. Although the Michigan Works' worker's attempts to contact Petitioner via phone were unsuccessful, there was no evidence that she was notified via mail. Because Petitioner was not properly notified that she was required to return to PATH, there was no noncompliance with employment-related activities in this case.

In light of the facts in this case, where Petitioner was under the impression that she was temporarily deferred from participation in the PATH program, was not aware that her doctor's note was insufficient to verify her short-term incapacity, and was not advised that she was required to re-participate in the PATH program, the Administrative Law Judge finds that the Department did not act in accordance with Department policy when it closed Petitioner's FIP case and sanctioned her case with a three-month closure.

### **DECISION AND ORDER**

Accordingly, the Department's 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 any FIP employment-related sanction applied to Petitioner's case for the period December 1, 2015 to February 29, 2016
2. Reinstate Petitioner's FIP case effective December 1, 2015;
3. Issue supplements to Petitioner for FIP benefits she was eligible to receive but did not from December 1, 2015 ongoing.



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

Date Signed: **1/27/2016**

Date Mailed: **1/27/2016**

ACE / tlf

**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: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]