



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 14, 2022
MOAHR Docket No.: 22-003976
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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; 42 CFR 438.400 to 438.424; 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 October 5, 2022, from Lansing, Michigan. The Petitioner was represented by herself, and her previous guardian, [REDACTED]. The Department of Health and Human Services (Department) was represented by Kimberly Polasek, Lead Specialist, and Angela Burgess, Family Independence Specialist.

ISSUE

Did the Department properly determine that the Petitioner failed to participate in the Partnership.Accountability.Training.Hope. (PATH) program, which made her ineligible to receive benefits from the Family Independence Program (FIP)?

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 [REDACTED] 2021, the Petitioner filed an application for FIP benefits, which required her to participate in the PATH program. Department Exhibit 1.
2. The Petitioner was approved for FIP but deferred from PATH due to pregnancy.
3. On January 27, 2022, the medical redetermination packet was mailed to the Medical Review Team (MRT). Department Exhibit 3-9.
4. On July 7, 2022, the MRT denied a continued deferral due to medical and determined that the Petitioner was not disabled and was work ready for performing other light work and could participate in PATH with limitations. Department Exhibit 2.

5. On July 22, 2022, the Department Caseworker sent the Petitioner a Notice of Referral to PATH.
6. On August 2, 2022, the Department received a hearing request from the Petitioner, contesting the MRT denial of medical deferral and the Petitioner did not show up for her PATH appointment.
7. On August 10, 2022, the Petitioner's FIP case closed because she did not participate in the PATH program, but the Department Caseworker restored FIP benefits.

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.

In this case, the Petitioner filed an application for FIP benefits, which required her to participate in the PATH program on [REDACTED] 2021. Department Exhibit 1. The Petitioner was approved for FIP but deferred from PATH due to pregnancy. On January 27, 2022, the medical redetermination packet was mailed to the Medical Review Team (MRT). Department Exhibit 3-9. On July 7, 2022, the MRT denied a continued deferral due to medical and determined that the Petitioner was not disabled where she was work ready for performing other light work and could participate in PATH with limitations. Department Exhibit 2.

On July 22, 2022, the Department Caseworker sent the Petitioner a Notice of Referral to PATH. On August 2, 2022, the Department received a hearing request from the Petitioner, contesting the MRT denial of medical deferral and the Petitioner did not show up for her PATH appointment. On August 10, 2022, the Petitioner's FIP case closed because she did not participate in the PATH program, but the Department Caseworker restored FIP benefits. BAM 105, 110, 115, 130, 220, 600, and 815. BEM 230A, 260 and 261. The Administrative Law Judge is making judicial notice of the Department policy in BEM 230A and 233A.

During the hearing, the Petitioner stated that she was completely disabled and not able to participate in the PATH program. She was previously deferred from PATH due to her pregnancy by MRT. However, the Petitioner was found work ready by MRT and capable of performing other work that was light work. Her request for a medical deferral

from PATH was denied by MRT. She received a PATH Notice to attend PATH but failed to attend PATH and requested a hearing.

The MRT denied her medical deferral stating that she was not disabled but could work with limitations. The Petitioner would have to attend PATH until she had been given a medical deferral from MRT. She did not attend PATH as required to receive FIP benefits. The Petitioner did not have good cause for missing PATH.

BEM 230A

DEPARTMENT PHILOSOPHY

The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting.

DEPARTMENT POLICY

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 Talent and Economic Development (TED), 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.

WEIs not referred to PATH will participate in other activities to overcome barriers so they may eventually be referred to PATH or other employment service provider. Michigan Department of Health & Human Services (MDHHS) must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP).

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related

activities is subject to penalties. For more about penalties; see BEM 233A. See BEM 230B and BEM 233B for FAP employment requirements.

REASONABLE ACCOMMODATION

Disability Definition

Section 504 of the Americans with Disabilities Act (ADA) defines a disability as a physical or mental impairment that substantially limits one or more major life activities; or a history of such an impairment; or being regarded as having such an impairment. Examples of major life activities include: thinking, learning, taking care of oneself, maintaining social relationships, sleeping, communicating, etc.

Many FIP clients have disabilities or live with a spouse or child(ren) with disabilities that may need accommodations to participate in assigned activities. The needs of persons with disabilities are highly individual and must be considered on a case-by-case basis. MDHHS must make reasonable efforts to ensure that persons with disability-related needs or limitations will have an effective and meaningful opportunity to benefit from MDHHS programs and services to the same extent as persons without disabilities. Efforts to accommodate persons with disabilities may include modifications to program requirements, or extra help, as explained below. Failure to recognize and accommodate disabilities undermines efforts to assist families in achieving self-sufficiency.

When a client requests reasonable accommodation in order to participate, MDHHS and the employment service providers will consider the need for applying the above requirements.

A disability as defined above that requires reasonable accommodation must be verified by an appropriate source, such as a doctor, psychologist, therapist, educator, etc. A client may disclose a disability at any time. Failure to disclose at an earlier time does not prevent the client from claiming a disability or requesting an accommodation in the future.

Accommodation

When information provided by an appropriate source indicates the need for reasonable accommodation, do the following:

- Obtain a DHS-54A, Medical Needs, or the DHS-54E, Medical Needs-PATH, from a qualified medical professional listed on the form.
- Consult Michigan Rehabilitation Services (MRS) if additional information about appropriate accommodations is needed or when you need advice.
- Document the accommodation in the Other MWA referral comments section of the Employment Services - Details screen, and on the Family Self-Sufficiency Plan (FSSP).

Modifications or extra help may include, but are not limited to, the following:

- Reduced hours of required participation.
- Extended education allowances including more than 12 months allowed for vocational education.
- Extended job search/job readiness time limit.

Justification for a plan including reasonable accommodation is documented in the client's FSSP and the Individual Service Strategy (ISS) with the one-stop service center.

When clients with verified disabilities are fully participating to their capability, they are counted as fully engaged in meeting work participation requirements regardless of the hours in which they are engaged, even if they do not meet federal work requirements.

MANDATORY PARTICIPATION IN EMPLOYMENT SERVICES

All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. WEIs who are temporarily deferred are required to participate in activities

that will help them overcome barriers and prepare them for employment or referral to an employment service provider.

PATH

Most WEIs are referred to PATH provided by the one-stop service center serving the client's area when one of the following exists:

- A WEI applies for FIP.
- A WEI applies to be a member added to a FIP group.
- A WEI is no longer temporarily deferred from employment services.

Note: An 18-year-old **adult** group member is considered a WEI and must attend PATH, regardless of school attendance; see BEM 228, Required Hours for Participation of WEIs.

The last date for a client to attend PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. If the client calls to reschedule before the 15th day, extend the Last Date for Client Contact on OSMIS. Either MDHHS or the one-stop service center have the capability of extending this date.

Note: A task and reminder are sent to the worker when a participant did not appear at PATH within the 15 day period. A pending application is automatically denied.

MDHHS workers indicate the minimum number of hours a client must participate in employment and/or self-sufficiency-related activities on the Employment Services - Details screen in Bridges. Clients may have limitations that support the need for special accommodations, which may include a reduction in the number of hours they are able to participate. In this instance, refer to policy outlined above under Reasonable Accommodations.

The one-stop service centers use the minimum required hours indicated in the FSSP to initially assign clients to activities that meet federal minimum participation requirements, up to 40 hours per week, unless reasonable accommodation policy applies and is documented.

**MANDATORY
PARTICIPANTS
DELAYED REFERRAL
(DEFERRED) TO
EMPLOYMENT
SERVICES**

WEIs meeting one of the following criteria are only temporarily not referred to an employment service provider because they may continue to count in Michigan's federal work participation rate. They are required to participate in activities that will increase their full potential, help them overcome barriers and prepare them for employment or referral to an employment services provider as soon as possible. Enter the specialist assigned activities into the FSSP to track participation of temporarily deferred WEIs; see BEM 228.

If the WEI refuses or fails to provide verification of a deferral when required, refer him/her to PATH.

Notify PATH service provider immediately by phone or email when a client who was previously referred is granted a temporary deferral.

Information entered in Bridges data collection will create the following participation/deferral reasons.

**Long-Term
Incapacity**

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. This may include those who have applied for RSDI/SSI.

For FIP applicants already receiving MA based on their own disability and/or blindness, meet the medical deferral requirements for incapacitated up to the medical review date stated on the DHS-49-A, as determined by the DDS 7/1/2015 and after.

Note: A person with a condition or impairment that is pregnancy-related must be deferred for a problem

pregnancy. These individuals should **not** be referred to the DDS or to an SSI Advocate if the **only** conditions or impairments are due to pregnancy: see Pregnancy Complications in this item.

Step One: Establishment of Disability

Once a client claims a disability, he/she must provide MDHHS with verification of the disability when requested. The verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant; see Verification Sources in this item.

In Bridges, the Deferral/Participation Reason is *Establishing Incapacity* while awaiting the verification that indicates the disability will last longer than 90 days.

At application, once the client has verified the disability will last longer than 90 days, the application may be approved, assuming all other eligibility requirements have been met.

If the returned verification indicates that the disability will last 90 days or less; see Short-Term Incapacity in this item.

Step Two: Defining the Disability

For verified disabilities over 90 days, see BAM 815, Medical Determination and Disability Determination Service, for the policy requirements in obtaining a medical certification from DDS. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation.

For verified disabilities over 90 days, the client must apply for benefits through the Social Security Administration (SSA) before step three. See BAM 815, Medical Determination and Disability Determination Service and BEM 270, Pursuit of Benefits.

In Bridges, the Deferral/Participation Reason is *Establishing Incapacity* while awaiting the DDS decision.

Step Three: Referral to DDS

Send the completed required forms along with any medical evidence provided, to the DDS to begin the medical development process.

The Deferral/Participation Reason in Bridges remains *Establishing Incapacity*.

Manually set a reminder in Bridges for a three-month follow-up.

DDS DECISION

Upon the receipt of the DDS decision, review the determination and information provided by DDS. Establish the accommodations the recipient needs to participate in PATH or to complete self-sufficiency-related activities. Follow the procedure for accommodating disabilities; see Reasonable Accommodation in this item.

Work Ready with Limitations

Recipients determined as work ready with limitations are required to participate in PATH as defined by DDS. To engage the recipient in PATH, take the following actions:

- End the Disability Details record in Bridges.
- Update the Disability Determination-MRT and Employment Services- Details screens in Bridges to indicate the recipient is *work ready with limitations*.
- On the Employment Services- Detail screen, use the Other MWA Referral Comments to identify the recipient's limitations as defined by DDS.
- On the CASH-EDG Summary the Deferral/Participation Reason will be *Work Ready with Limitations*.
- Bridges will generate a referral to PATH as well as the DHS-4785 once the specialist runs and certifies eligibility.

Do not require the recipient to apply for RSDI/SSI.

When to Request a New DDS Decision

After a DDS decision and/or SSA medical determination has been denied and the client states their existing condition has worsened or states they have a new condition resulting in disability greater than 90 days, verify the new information using a DHS-54-A or a DHS-54E. When an individual presents a doctor's note after the DDS decision but does not have new medical evidence or a new condition, send the DHS-518, Assessment for FIP Participation, to the doctor and request supporting medical evidence.

If the returned verification confirms the above, follow policy in BAM 815 to make a new referral to DDS.

The specialist must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency.

If new medical evidence is not provided, do not send the case back to the DDS. The previous DDS decision stands.

NONCOMPLIANCE

When a client determined by DDS to be work ready with limitations becomes noncompliant with PATH or his/her FSSP assigned activities, follow instructions outlined in BEM 233A.

REQUEST FOR TEMPORARY DEFERRAL FROM PATH

Deferral Not Granted

Do all the following when a request for deferral is not granted:

- Document the basis of the decision including any limitations or restrictions in the FSSP under the Barriers and Referrals tab.

- Inform the individual that he/she did not meet the criteria for the deferral and that he/she will be required to participate in PATH.
- Refer the client to PATH as outlined in BEM 228, providing information on any limitations to full participation using Other MWA Referral Comments on the Employment Services Detail Screen.

Advise the client of his/her right to:

- Discuss the deferral decision with a supervisor.
- File a grievance with the one-stop service center if he/she disagrees with the activities assigned at PATH.
- File a hearing regarding denial of support services such as transportation assistance, childcare assistance, decrease in benefits.

Note: When a deferral is not granted, it is not a loss of benefits, termination or negative action. When a client requests a hearing based on not being granted a deferral, be sure to advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. Be sure the client understands the time to file a hearing is once he/she receives a Notice of Case Action for noncompliance.

BEM 233A

DEPARTMENT PHILOSOPHY

FIP

MDHHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such

compliance have been identified and removed. The goal is to bring the client into compliance.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified non-citizens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY- RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.

GOOD CAUSE FOR NONCOMPLIANCE

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. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period.

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.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

Reasonable Accommodation

The MDHHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

No Child Care

The client requested child care services from MDHHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider.** The provider meets applicable state and local standards. Also, license exempt providers who are not licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA) Child Care Licensing Bureau (CCLB) must meet Child Development and Care (CDC) enrollment requirements; see BEM 704.
- **Affordable.** The child care is provided at the rate of payment or reimbursement offered by CDC.

No Transportation

The client requested transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs.

**Unplanned
Event or
Factor**

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

**Comparable
Work**

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

**Long
Commute**

Total commuting time exceeds:

- Two hours per day, not including time to and from child care facilities **or**
- Three hours per day, including time to and from child care facilities.

**Clients Not
Penalized**

Ineligible caretakers, disqualified non-citizens, and single parents who cannot find appropriate child care for a child under age six are not required to participate; see BEM 230A for required verification.

**NONCOMPLIANCE
PENALTIES FOR
ACTIVE FIP
INDIVIDUALS AND
MEMBER ADDS**

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.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011, will be added to the individual's existing penalty count.

Example: In February 2011, Betty started serving her third noncompliance penalty of 12 months, which will end March 2012. After reapplication, if she is determined noncompliant for a fourth occurrence, Bridges will close the FIP EDG for a lifetime sanction.

The sanction period begins with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member add who is a WEI mandatory participant.

Note: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified non-citizens. Failure to complete the FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

Individual Penalty Counter

Bridges applies noncooperation penalties at an individual level.

Two parent families will have two individual penalty counters. The FIP EDG penalty is applied based on the individual penalty counter.

Example: Sally has a penalty count of one. Edward has a penalty count of two. If the next penalty results from Sally's noncompliance, the FIP EDG will close for six months. However, if the next penalty results from Edward's noncompliance, the FIP EDG will close for a lifetime sanction.

In a two-parent family, one parent has to reach his/her individual penalty count of three for the case to close for a lifetime sanction.

In the first episode of assistance, Sally has a penalty count of one and Edward has a penalty count of one. Sally receives a second penalty count and the case closes for six months. After reapplication, in the second episode of assistance, the next penalty on the case is Edward's second penalty, which closes the case for six months. After reapplication, in the third episode of assistance, Edward receives his third penalty count, which closes the case for lifetime. An individual serving their first or second employment and training sanction is able to apply for FIP benefits only in the last month of their current sanction, in order to be determined eligible for FIP benefits the month after the current sanction ends.

Example: Lenny is serving a sanction that ends 1/31. He applies for assistance on 12/10. As he is applying for benefits effective in January, the application will be denied as he is ineligible in January due to serving a sanction.

Example: Carl is serving a sanction that ends 1/31. He applies for assistance on 1/01. If he meets all eligibility criteria, the application may be approved for February, as his sanction ends on 1/31.

triagePATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify PATH case manager of triage day schedule, including scheduling guidelines.

Note: Do not schedule a triage for instances of noncompliance while the FIP application is pending.

Prior to the triage meeting, the specialist should review the following:

- The One-Stop Management Information System (OSMIS) case note and activities that correspond to Bridges noncompliance and sanction records.
- Case notes in the case file and on Bridges.
- Noncooperation records in Bridges reflect the appropriate penalty count.
- Documented triage results on the noncooperation records, to ensure they are consistent with client statements or possible documentation of good cause.

During the triage appointment, review the FAST and FSSP with the client to determine if any identified barriers were not addressed. Document the results in Bridges case notes.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period.

Determine good cause 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 MDHHS or PATH. **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.

If the specialist or PATH case manager do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement. The MDHHS supervisor makes the final determination of good cause.

MDHHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Document in the case file and on Bridges that the case noncompliance history was reviewed.

Note: Clients not under the supervision of PATH, but rather under the department's supervision, must be scheduled for a triage meeting between the specialist and the client. This does not include applicants.

Note: When a client who is determined by Disability Determination Service (DDS) to be work ready with limitations becomes noncompliant with PATH, schedule a planning triage, which includes all of the following:

- Review the medical packet including the limitations identified by DDS on the DHS-49-A, Medical-Social Eligibility Certification.
- If necessary, revise the FSSP using the limitations identified on the DHS-49-A. Assign medically permissible activities.
- Enter good cause reason *Client unfit* in Bridges on the Noncooperation details screen, if the noncooperation was related to the identified limitation or is an additional identified limitation.

If an individual becomes noncompliant with his/her FSSP assigned activities, follow the instructions in this item, under Noncompliance Penalties For Active FIP Individuals and Member Add.

HEARINGS

Expedited Hearings

Staff must identify cases for the Michigan Office of Administrative Hearings and Rules (MOAHR) when a client files a hearing based on closure due to noncompliance with an employment and/or self-sufficiency related activity. MOAHR has agreed to expedite these hearing requests in an effort to engage clients in a timely manner and improve the state's overall work participation rate. Write "**Expedited Hearing E&T**" at the top of the hearing request so that it can be easily identified as a priority. Refer to BAM 600, Expedited Hearings, for additional instructions.

Hearing Decisions

When a hearing decision is upheld for noncompliance, impose the penalty for the first full month possible for three months, six months or a lifetime sanction. Do not recoup benefits.

BAM 815

DEPARTMENT POLICY

The Disability Determination Service (DDS) develops and reviews medical evidence for disability and/or blindness and certifies the client's medical eligibility for assistance. DDS does not accept electronic medical records in the form of CDs or DVDs. See Exhibit - DDS AREAS for the phone number of the DDS office which handles each county or district.

FIP, SDA, RCA and MA

This item contains medical determination policy for:

- Establishing medical eligibility for assistance programs.
- Determining whether an institutionalized Medicaid (MA) client is capable of indicating intent to remain a Michigan resident.
- Disability and/or blindness.
- Employment-related activities disability deferrals per BEM 230A and BEM 230C.
- Previously Denied DDS Medical Determinations
- FIP, SDA, RCA and MA
- If a client's previous DDS and/or SSA medical determination was not approved, the client has to prove a new or worsening condition in order to start the medical determination process again. Request a DHS-49 for physical conditions and a DHS-49-D/E for mental health conditions. Clinical notes from the treating physician that the condition has worsened may also be used.

- If the client verifies a new or worsening condition; see Steps for Medical Determination Applications in this item.
- Administrative Hearings
- For all administrative hearing procedures see BAM 600.

This Administrative Law Judge finds that the Petitioner failed to comply with the requirements for the PATH program, which is required for continued eligibility for FIP benefits. She failed to attend PATH after her medical deferment was denied. An evaluation cannot be made of whether or not she was able to participate in PATH because she never attended. The Petitioner did not have good cause for not attending PATH. The Petitioner, after a denial by MRT, is required to attend PATH to continue to be FIP eligible. She can resubmit a medical deferral application if she had worsening of conditions that affect her ability to work and supporting medical documentation to MRT for reconsideration. However, the Petitioner is required to continue to attend PATH and work with the PATH program for any work-related limitations that she may have to report back to the Department to determine if any other considerations need to be made. The Petitioner is in noncompliance with the PATH program and not eligible for FIP benefits.

DECISION AND ORDER

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 acted in accordance with Department policy when it determined that the Petitioner was in noncompliance with the PATH program and not eligible for FIP benefits.

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

CF/c



Carmen G. Fahie
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

Interested Parties

MDHHS-Newaygo-Hearings
BSC3-HearingDecisions
B. Sanborn
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]