

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201325930
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Wayne DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 28, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's translator. It should be noted that Claimant listed his translator as an authorized hearing representative (AHR); Claimant stated that he intended to use his translator only for translation and not as an AHR. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) benefits due to noncompliance with Partnership. Accountability Training. Hope. (PATH) participation.

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 FIP benefit recipient.
2. Claimant was not an ongoing PATH participant.
3. Claimant had a 35 hour/week requirement to attend PATH.
4. On 11/19/12, DHS mailed Claimant a Work Participation Program Appointment Notice scheduling Claimant for PATH orientation on 12/4/12.

5. Claimant attended the PATH orientation and reported that he had impairments which would restrict his future attendance.
6. On 12/12/12, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 1/2013, due to noncompliance with PATH participation.
7. On 12/12/12, DHS imposed a pending employment disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage.
8. A triage was held and DHS determined Claimant lacked good cause for failing to continue PATH participation.
9. On 1/7/13, Claimant requested a hearing disputing the FIP benefit termination.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (11/2012), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

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:

- Appear and participate with the work participation program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a 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.
- BEM 233A (11/2012), p. 1-2

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.* 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 period depending on the number of previous non-compliance penalties. *Id.*

The present case involves a FIP benefit termination, effective 1/2013, based on an employment disqualification imposed against Claimant. It was not disputed that DHS mailed Claimant a Work Participation Program Appointment Notice informing Claimant of an obligation to attend PATH orientation on 12/4/12. It was not disputed that Claimant attended the orientation but failed to attend any days thereafter. DHS contended that Claimant's failure to continue WPP attendance is a basis for noncompliance. Claimant contended that he attended the PATH orientation and advised PATH staff that he has impairments which restrict his ability to attend.

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. BEM 230A (1/2013), p. 9. 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. *Id.*

It was not disputed that DHS failed to evaluate Claimant for any medical restrictions in attending PATH. DHS contended that Claimant failed to report any potential restrictions from attending PATH. It was established by documentation made by PATH staff that Claimant reported an impairment which would limit PATH attendance. The PATH documentation also noted that Claimant presented a medical document which was forwarded to DHS. The testifying specialist noted that she was unaware of any claim of disability from Claimant. Even if the specialist's testimony were true, the point is irrelevant. If PATH failed to forward documents to DHS, that is the result of poor communication, and not from any fault of Claimant's. For purposes of reporting a potential disability, PATH staff persons are the equivalent of DHS staff persons.

Based on the presented evidence, Claimant established reporting a disability that could potentially restrict his PATH attendance. DHS failed to evaluate Claimant for the

disability prior to terminating Claimant's FIP benefit eligibility. Accordingly, the FIP benefit termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefit eligibility. It is ordered that DHS initiate:

- (1) redetermination of Claimant's FIP benefit eligibility, effective 1/2013, subject to the finding that DHS failed to evaluate Claimant's potential medical restrictions on PATH attendance;
- (2) processing of a supplement for any benefits lost as a result of the improper finding of noncompliance; and
- (3) removal of any relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/8/2013

Date Mailed: 3/8/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

201325930/CG

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

