

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201329577
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Oakland DHS (04)

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 March 25, 2013 from Detroit, Michigan. Participants included the above-named claimant. 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) due to Claimant's 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. On an unspecified date, DHS mailed Claimant a Work Participation Program (WPP) Appointment Notice to attend PATH.
4. Claimant attended PATH orientation with her child and was turned away for bringing her child.

5. On 1/31/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage meeting to be held on 2/8/13.
6. On 1/31/13, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 3/2013, due to noncompliance with WPP participation.
7. Claimant attended the triage meeting and presented the first page of a Medical Needs- JET form (Exhibit 1) and later submitted the second page (Exhibit 2).
8. DHS determined that Claimant had no good cause for her failure to attend PATH.
9. Claimant had no good cause for her failure to attend PATH.
10. On 2/8/13, 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 3/2013, based on an employment disqualification imposed against Claimant. It was not disputed that DHS mailed Claimant a Work Participation Program Appointment Notice. DHS failed to establish the date of the orientation. Claimant responded that she attended the orientation but was denied entry because Claimant brought her child with her. Claimant's attendance with her child is not deemed to be a sincere attempt at WPP/PATH attendance. It is widely understood that PATH was intended for DHS clients to seek employment opportunities and that arrangements for day care may be made prior to PATH attendance. It is found that DHS established a basis for noncompliance.

WEIs will not be terminated from a WPP program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.*, p. 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration. *Id.*, p. 8. In addition, a triage must be held within the negative action period. *Id.* If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id.*

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. *Id.*, p 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.*, p. 4. A claim of good cause must be verified. *Id.*, p. 3.

Claimant stated that she is unable to attend WPP because she must attend to her disabled daughter. It was not disputed that Claimant's daughter receives Supplemental Security Income (SSI) and is disabled.

Claimant provided some additional background. Claimant testified that her daughter attended public school for a short period in 2012, but that Claimant removed her after the school provided the child with expired insulin. Claimant also contended that the school refused the training necessary to deal with her daughter's disability.

Claimant presented a potentially compelling claim of good cause. There are few better excuses for failing to attend PATH than tending to a disabled child. It was disputed whether the daughter's disability excuses Claimant from PATH attendance.

A Medical Needs- JET document (Exhibits 1-2) was presented. The form was signed by Claimant's daughter's physician on 2/15/13. DHS presented testimony that Claimant submitted the first page of the form at the triage and that the second page was submitted on some date thereafter. Claimant denied submitting the form to DHS. It would be improbable that DHS could have obtained the form without Claimant submitting it. It is found that Claimant submitted the form.

The Medical Needs Form noted that Claimant's child had no physical limitation. It was noted that Claimant's daughter had no standing or sitting restrictions. It was noted that Claimant could work full time and that the child should be in school or day care full-time. The form was persuasive evidence that Claimant is not required to stay at home with her daughter and that Claimant's daughter is medically capable of attending school.

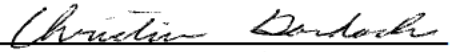
It was also exceptionally concerning that Claimant testified that her daughter has not attended school for four months. Claimant testified that she refuses to send her daughter back to her last school and that no adequate schools are available for her daughter. Accepting Claimant's testimony as completely sincere, it is highly questionable that Claimant's decision to keep her daughter out of school is a sensible decision.

Claimant's testimony was somewhat supportive of finding that Claimant acted in her daughter's best interest. Had Claimant's daughter's lack of school attendance been temporary, good cause would have surely been found. However, for Claimant's daughter to miss four months of school is not reasonable. The extended duration of school absence is supportive of finding that Claimant did not act reasonably. Because Claimant did not act reasonably, good cause was not established. Accordingly, the DHS termination of FIP benefit eligibility was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective

3/2013, due to noncompliance with employment-related activities by Claimant. The actions taken by DHS are AFFIRMED.


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

Date Signed: 4/4/2013

Date Mailed: 4/4/2013

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.

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:

