

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

IN THE MATTER OF:



Reg. No.: 201330250
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Wayne (#17)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Monday March 25, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Specialist).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance (FIP) case due to non-compliance 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. The Claimant was an ongoing FIP recipient.
2. The Claimant's spouse was temporarily deferred from the WF/PATH Program based on alleged disabilities.
3. On November 26, 2012, the Department sent Work Participation Program Appointment Notices instructing both the Claimant and his spouse to attend the WF/PATH program on December 11, 2012.

4. The Claimant and his spouse attended the orientation on December 11, 2012, and provided medical documentation to the PATH coordinator. (Exhibit 4)
5. The Claimant was instructed to obtain a Medical Needs Form from the Department to submit for his spouse to be deferred from the program.
6. On December 11, 2012, the Department sent Claimant a Medical Needs Form for his spouse. (Exhibit 3)
7. On December 29, 2012, the Department sent a Notice of Noncompliance to the Claimant and his spouse instructing them to attend a triage appointment on January 7, 2013 to discuss whether good cause existed for the non-compliance with the WF program. (Exhibit 2)
8. As a result of the triage, it was determined the Claimant did not have good cause for non-compliance, but his spouse was medically deferred.
9. A 3-month non-participation sanction was imposed. (Exhibit 3)
10. On January 7, 2013, the Department received Claimant's written hearing request disputing the action.

CONCLUSIONS OF LAW

The Department of Human Services policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Department requires FIP recipients to participate in the PATH program or other employment and self-sufficiency related activities and to accept employment when offered unless deferred. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, p. 6. Good cause is a

valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A, p. 3.

PATH participants will not be terminated from a PATH program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

In this case, according to the Department, both the Claimant and his spouse were referred to the PATH program on December 11, 2012, despite the spouse's previous temporary deferment. They both attended PATH as scheduled. Claimant testified credibly that he provided medical documentation to the PATH coordinator to show that his spouse should be medically deferred. As a result, the PATH coordinator instructed him to obtain a medical needs form for his spouse from the Department to submit and to request to be rescheduled for another appointment to attend PATH alone. He requested the Medical Needs Form for his spouse from the Department the same day, but was not rescheduled for another PATH appointment. Evidence shows the Claimant submitted the Medical Needs Form for his spouse, dated December 18, 2012, to the Department in a timely manner. At triage held on January 7, 2013, the Department determined that while the spouse had a good cause reason for not participating and was deferred, the Claimant had no good cause reason for non-compliance. Claimant stated that he was willing to participate with the PATH program, but expected to be scheduled for another appointment date to attend the PATH program alone without his spouse. He did not continue in the program because he was instructed to leave by the PATH coordinator and told to resolve the issue regarding his wife's medical deferment with the Department.

Although the Claimant and his spouse attended the scheduled PATH appointment December 11, 2012, the Department still found Claimant non-compliant. Notably, the Notice of Non-Compliance indicates Claimant failed to complete FSSP on November 25, 2012. Conflicting evidence was presented regarding Claimant's attendance on December 11, 2012, communication with the PATH worker and the instructions given to him. The PATH worker did not participate in the hearing process. Pursuant to BEM 23A, if it is determined that good cause issues have been resolved, the Department is to send the client back to PATH. The evidence indicates that the Department did not determine that the spouse would continue to be deferred from PATH until the date of

triage. At which time, rather than send Claimant back to PATH after resolving his issue, the Department chose to impose a sanction for non-compliance. There is no evidence on this record that shows the Claimant refused to participate with PATH, or was otherwise non-compliant. In light of the conflicting evidence and procedural error, it is found that the Department failed to establish it acted in accordance with policy when it terminated the Claimant's FIP benefits for non-compliance with employment related activity.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with policy when it terminated Claimant's FIP benefits effective February 1, 2013.

Accordingly, the Department's FIP decision is hereby, **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The three-month FIP sanction for non-compliance is removed.
2. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure (February 1, 2013) and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
3. The Department shall send the Claimant back to the work participation program in accordance with Department policy.


MICHELLE HOWIE

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

Date Signed: 3/29/2013

Date Mailed: 3/29/2013

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

MH/hw

cc:

