

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-32203
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Jackson DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED], from [REDACTED], Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with employment and/or self-sufficiency related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Family Independence Program (FIP) recipient until [REDACTED]
2. The Claimant submitted an application for State Emergency Relief (SER) benefits seeking assistance with electricity and heat expenses.
3. The Department referred group member R.C. to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.

4. The Claimant was noncompliant with the PATH program when R.C. failed to submit verification that he had completed his entire assignment by [REDACTED].
5. The Department conducted a triage meeting on [REDACTED].
6. On [REDACTED], the Department notified the Claimant that it would sanction her FIP benefits as of [REDACTED].
7. On [REDACTED], the Department denied the Claimant's application for State Emergency Relief (SER).
8. The Department received the Claimant's request for a hearing on [REDACTED] protesting the sanctioning of her FIP benefits and denial of State Emergency Relief (SER) benefits.

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. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (ERM).

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Human Services Bridges Eligibility Manual (BEM) 229 (January 1, 2013), p 1.

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 Workforce Development Agency, 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. Department of Human Services Bridges Eligibility Manual (BEM) 230A (January 1, 2013), p 1.

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. DHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). BEM 230A, p 1.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p 1.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
- Appear and participate with PATH 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.

- 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.
- Department of Human Services Bridges Eligibility Manual (BEM) 233A (January 1, 2013), pp 2-3.

The Department will follow the procedures outlined below for processing the FIP closure:

- On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment And/Or Self-Sufficiency Related Noncompliance, which is sent to the client. The following information will be populated on the DHS-2444:
 - The name of the noncompliant individual
 - The date of the initial noncompliance. (For individuals being served by PATH, this is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage activity in OSMIS.)
 - All the dates, if addressing more than one incident of noncompliance.
 - The reason the client was determined to be noncompliant.
 - The penalty that will be imposed.
 - The scheduled triage appointment, to be held within the negative action period.
- Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. Document the good cause determination on the Noncooperation Detail Screen within 24 hours of determination. BEM 233A, pp 8-9.

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. BEM 233A, pp 3-4.

Good cause should be determined 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 DHS or MWA. 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. BEM 233A.

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.

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.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed; see Benefit Delay for Refusing Employment in this item. BEM 233A.

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. BEM 233A.

In this case, the Claimant was an ongoing Family Independence Program (FIP) recipient until [REDACTED], and the Department had referred group member R.C. to the PATH program as a condition of receiving FIP benefits. Group member R.C. was noncompliant with the PATH program when he failed to submit verification that his assignment had been completed as of [REDACTED] 13. The Department conducted a triage meeting on [REDACTED], where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. The Department did

not find good cause. On [REDACTED], the Department notified the Claimant that it would sanction her Family Independence Program (FIP) benefits as of [REDACTED].

The Claimant argued that group member R.C. had good cause for his noncompliance with the PATH program. The Claimant testified that R.C. had been fulfilling his PATH assignment requirements through employment, but that his employer frequently sent him home early due to a lack of work. The Claimant testified that illness had been a barrier to the Claimant's completion of his PATH assignment that was beyond his control.

Although actions taken by the employer of group member R.C. were outside of his control, the Claimant had a duty to seek employment leading to self-sufficiency and/or fulfill his PATH assignment through other means. This Administrative Law Judge finds that being sent home early from his shift does not meet the definition of good cause.

Although the Claimant submitted some medical documentation showing that R.C. had been sick while assigned to the PATH program, the Claimant failed to establish that these illnesses caused him to not fulfill his assignment requirements. The Claimant failed to establish good cause based on injury or illness.

The Claimant testified that the Department did not give group member R.C. a reasonable opportunity to become compliant with the PATH program.

This Administrative Law Judge finds that the Department's failure to sanction the Claimant during previous months where the entire PATH assignment may not have been completed is not relevant to the issue of whether the Claimant had good cause as of [REDACTED].

Based on the evidence and testimony available during the hearing, the Department's determination that group member R.C. did not have good cause for his noncompliance with the PATH program is reasonable. The Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with self-sufficiency related activities.

The Department's representative testified that SER benefits were denied because the Claimant failed to establish a payment history and that the issuance of benefits would not resolve her emergency.

The Claimant testified that the lack of payment history was the result of the utility bills being placed in her name, when they had been sent to under another person's name in the past.

This Administrative Law Judge finds that the Claimant had a duty to provide the Department with information necessary to determine her eligibility to receive benefits. Based on the evidence and testimony available during the hearing, the Claimant failed to establish that she provided the Department with the information necessary to determine her eligibility to receive SER benefits.

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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

KS/KL

cc:

