

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201334138
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 10, 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 April 10, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [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. Claimant was deferred from PATH participation for 4-6 weeks beginning 1/8/13.
4. On 2/12/13, DHS mailed Claimant a PATH Appointment Notice to attend PATH orientation on 2/25/13
5. Claimant failed to attend PATH orientation.

6. On 2/26/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance (Exhibits 1-2) scheduling Claimant for a triage meeting to be held on 3/5/13.
7. On 2/26/13, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 4/2013, due to noncompliance with PATH participation.
8. Claimant did not attend the triage meeting.
9. DHS determined that Claimant had no good cause for the alleged employment-related noncompliance.
10. On 3/8/13, Claimant requested a hearing disputing the FIP benefit termination.
11. On 3/12/13, DHS reinstated Claimant's FIP benefit eligibility, per Claimant's hearing request, pending the outcome of the administrative hearing.

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 Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (1/2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.* PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *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 4/2013, based on an employment disqualification imposed against Claimant. It was not disputed that DHS mailed Claimant a PATH Appointment Notice to attend PATH orientation on 2/25/13. It was not disputed that Claimant failed to attend PATH on the orientation date or any dates thereafter. It is found that DHS established a basis for noncompliance.

PATH participants will not be terminated from PATH 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, the penalty duration and an appointment for a triage meeting. *Id.*, pp. 8-9. The 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.*, p. 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. *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.

It was not disputed that Claimant failed to attend the triage. Despite Claimant's absence, Claimant was given an opportunity to present good cause during the administrative hearing.

Claimant testified that he was medically deferred at the time of his alleged noncompliance. As proof of good cause, Claimant cited a physician-signed document dated 1/8/13. The document restricted Claimant's standing ability for 4-6 weeks. Even if the standing restrictions were deemed to excuse Claimant from PATH attendance and Claimant was given the benefit of a six week deferral, the deferral would have ended as of 2/25/13, the date Claimant was expected to attend PATH. Thus, Claimant had no good cause based on a claim of short-term incapacity.

Claimant also stated that he performed an unpaid internship for the past year or two which should have excused him from PATH attendance. Claimant presented a letter from the company where the internship was performed which tended to verify Claimant's participation with the internship.

DHS and PATH sites have the authority to excuse clients from attendance for various reasons including internships. Claimant contended that his internship should have excused him from PATH attendance. The problem with Claimant's contention is that Claimant made the decision to excuse himself instead of attending PATH for their approval. Claimant contended that PATH recognized Claimant's internship as time that could be applied toward Claimant's PATH requirements. Claimant failed to verify any such recognition by PATH. PATH notes (Exhibit 3) dating back to 1/4/11 failed to note any internship as a substitute for PATH participation.

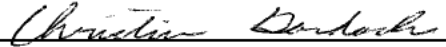
Claimant conceded that he did not regularly send PATH verification of his internship participation; this would be expected if PATH honored Claimant's internship time as PATH participation time. Further, even if PATH had, at a distant point in time, recognized Claimant's internship as PATH participation, it would be reasonable to have Claimant attend an orientation so that the status of Claimant's internship could be established.

Based on the presented evidence, Claimant failed to establish good cause for not attending PATH. Accordingly, the FIP benefit termination 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 4/2013, due to Claimant's noncompliance with employment-related activities.

The actions taken by DHS are AFFIRMED.


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

Date Signed: 4/17/2013

Date Mailed: 4/17/2013

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:

