

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201336233
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 24, 2013
County: Wayne (#18)

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 Wednesday, April 24, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (FIS), [REDACTED] (PATH Coordinator), [REDACTED] (ES), [REDACTED] (FIM), [REDACTED] (CDF-PATH Worker) and [REDACTED] (CDF-PATH Worker).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits for failure to participate in employment related activities?

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, who is a mandatory participant in Work First/ Partnership Accountability Training Hope (PATH) program.
2. On March 11, 2013, the PATH program career development facilitator (CDF), determined that the Claimant submitted job log sheets for the week of March 4 – 8, 2013 that were fraudulent due to the sheet having white out and inconsistent name spellings, addresses and/or telephone numbers for about 5 out of 40 job listings and appeared to be a copy of another client's log sheet.

3. On March 11, 2013, the Department sent Notice of Non-compliance to Claimant, scheduling her to attend triage on March 21, 2013 to discuss the allegation of falsification of the job log sheets for week . (Exhibit 2)
4. On this same date, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would terminate effective April 1, 2013, for failure to participate in employment related activities. (Exhibit 1)
5. On March 21, 2013, the Claimant attended triage and disputed the allegation that she submitted a fraudulent job log sheet and provided explanation in response to the allegations.
6. The Department determined that the Claimant's log sheets were fraudulent and that good cause did not exist for non-compliance.
5. The Department imposed a six month sanction for a second occurrence of non-compliance with employment related activities.
6. On March 21, 2013, the Department received Claimant's written hearing request disputing the action.

CONCLUSIONS OF LAW

The Department of Human Service (DHS) 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)) is temporary cash assistance to support a family's movement to self sufficiency. It 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 recipients to participate in the PATH program or other employment and self-sufficiency related activities and to accept employment when offered. 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, Claimant was required to participate in the PATH program by conducting job searches. She submitted a job search log on March 11, 2013 which the Department determined was fraudulent because the job searches were similar to another client's log sheet, contained white out and several misspelled job names, incorrect addresses and telephone numbers for 5 out of 40 listings. The PATH worker testified that she contacted two of the jobs and was told that there was no application on file for the Claimant. In addition, after reviewing the sheets she thought the log sheet was a copy of another client's log sheet. Claimant denied that she submitted a fraudulent job log sheet. She testified credibly that she personally conducted the job search for the week in question with her sister and her sister's boyfriend, therefore their logs would be similar. She further stated that a PATH worker instructed her to list any job visited as part of her job search hours even if the job was not accepting applications. The PATH worker told Claimant to google the telephone numbers for several of the jobs listed on her log sheet before the log sheet would be accepted for the week in question. Claimant further testified that the log sheet contained white out because she used her married name on the sheet and had to correct it to use her maiden name.

The Department has the burden of establishing by a preponderance of the evidence that the action taken was proper in accordance with policy. Here, the Department referenced a job log sheet that was used to make its determination. However, the referenced job log sheet was not presented as evidence at hearing. The PATH case notes indicate that another PATH worker observed the Claimant copy sheets, white out and place her name over another client's. (Exhibit 3) The worker that allegedly observed such activity did not participate in the hearing. Claimant denied the allegation. The evidence on record is insufficient to support a finding that the Claimant submitted fraudulent job search documentation. The Department did not present sufficient testimony and/or documentary evidence to support the allegation. Therefore, the Department's action is not upheld.

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 establish it acted in accordance with policy when it terminated the Claimant's FIP benefits effective April 1, 2013 for non-compliance with employment related activities.

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 Department shall reinstate the Claimant's FIP benefits effective to date of closure (April 1, 2013); and issue a supplement for any lost FIP benefits the Claimant was otherwise eligible and qualified to receive.
2. The Department shall refer the Claimant back to the PATH program in accordance with policy.
3. The Department shall remove the six month sanction imposed for a second non-compliance with employment activity.

M. Howie

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

Date Signed: 5/1/2013

Date Mailed: 5/1/2013

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:

