

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201339284
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne DHS (18)

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 May 2, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) and reduced Claimant's Food Assistance Program (FAP) benefit eligibility 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 and FAP benefit recipient.
2. Claimant was not an ongoing PATH participant.
3. On an unspecified date, Claimant reported a bed bug problem to DHS.
4. DHS deferred Claimant from PATH participation for three months because of the bed bug problem.

5. On 12/6/12, DHS mailed Claimant a Quick Note informing Claimant that her deferral from employment training participation has ended.
6. On 12/6/12, DHS mailed Claimant a Work Participation Appointment Notice (Exhibit 2) notifying Claimant to attend PATH orientation on 12/17/12.
7. Claimant failed to attend PATH orientation.
8. On 12/31/12, DHS mailed Claimant a Notice of Case Action (Exhibits 5-6) initiating termination of Claimant's FIP benefit eligibility, effective 2/2013, due to noncompliance with PATH participation.
9. On 12/31/12, the Notice of Case Action also reduced Claimant's FAP benefit eligibility, effective 2/2013, also due to noncompliance with PATH participation.
10. On 1/2/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance (Exhibits 3-4) scheduling Claimant for a triage meeting to be held on 1/10/13.
11. Claimant did not attend the triage meeting.
12. DHS properly determined that Claimant had no good cause for the alleged employment-related noncompliance.
13. On 4/8/13, 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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing because of bed bugs. Claimant testified that she required no special arrangements.

It should also be noted that Claimant appeared to submit a hearing request more than 90 days following the mailing of the case action in dispute. The issue of the timeliness of Claimant's hearing request was not raised during the hearing. For purposes of this decision, it will be found that Claimant's hearing request was timely.

Claimant requested a hearing to dispute a FIP benefit termination. It was not disputed that the basis for the termination was due to noncompliance by Claimant in participating with PATH.

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.*

DHS presented evidence that DHS mailed Claimant a notice of an appointment to attend a work participation program orientation. It should be noted that DHS changed the lingo of “work participation program” to PATH in 1/2013. It was not disputed that Claimant failed to attend PATH on the orientation date or any dates thereafter. Claimant contended that she did not receive the notice to attend. Claimant’s argument will be addressed below. Temporarily disregarding the issue of Claimant’s notice, DHS established a basis for noncompliance with PATH participation.

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.

In her written request for hearing, Claimant asserted good cause for not attending PATH because of an ongoing bed bug problem. It was not disputed that DHS deferred Claimant from PATH participation in the three prior months. The three month deferral was established to be sufficiently lengthy to excuse Claimant from participation. Neither Claimant nor her spouse made it clear why DHS should have extended the deferral. Claimant never alleged that she reported a need to her specialist to extend the deferral. Based on the presented evidence, Claimant did not have good cause for failing to attend PATH due to bed bugs.

Claimant testified that she did not attend PATH because she never received a notice to attend. DHS presented the orientation notice (Exhibit 2) as evidence. Claimant conceded that the orientation notice listed her correct mailing address. DHS is known to rely on their automated computer system to mail documents. The presentation of a form with a correct mailing address is persuasive evidence that DHS mailed the form to Claimant’s correct mailing address. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Claimant and her spouse testified that there was a two and a half week period when they experienced mailing problems because snow removal crews knocked down their mailbox. The testimony had multiple shortcomings.

Good cause must be verified. Claimant presented no documentary evidence to verify the mailing problem.

It was also not explained why Claimant did not repair the mailbox shortly after discovering it was knocked down. Presumably, a person would address the problem as quickly as possible so as not to miss mail delivery. In fairness to Claimant, this specific issue was not raised during the hearing.

Claimant's testimony was also questionable in that she cited a two and half week period of missing mail delivery (approximately 17-18 days) yet Claimant claimed to not receive the DHS mailings from 12/6/12 or 1/2/13, a period separated by 27 days.

Based on the presented evidence, it is found that Claimant received the DHS mailings informing her of PATH attendance. Thus, Claimant failed to establish good cause for failing to attend PATH. Accordingly, the FIP benefit termination was proper.

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a penalty on the FIP program;
- the client is not deferred from FAP work requirements; and
- the client did not have good cause for the noncompliance. BEM 233B at 2.

Clients meeting one of the criteria below are temporarily deferred from FAP employment-related activities:

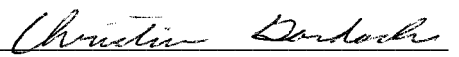
- Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.
- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.
- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.

- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion.
- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B (12/2011), pp. 3-5.

There was no dispute that the FAP benefit reduction was solely based on Claimant's noncompliance with PATH participation. It was determined above that the noncompliance findings by DHS were proper. DHS established all other requirements to justify a FAP benefit disqualification. It is found that DHS properly reduced Claimant's FAP benefit eligibility due to an employment-related activity disqualification.

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 and reduced Claimant's FAP benefit eligibility, effective 2/2013, 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: 5/9/2013

Date Mailed: 5/9/2013

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:

