

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-46315
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 12, 2013
County: Saginaw 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 June 12, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [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 June 1, 2013.
2. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.
3. On March 29, 2013, the Claimant's medical service provider signed a Medical Needs – Path (DHS-54E) that indicated the Claimant is capable of participating in the PATH program.

4. On April 5, 2013, the Department notified the Claimant that she was scheduled for an appointment with the PATH program at 8:30 a.m., on April 15, 2013.
5. The Claimant was noncompliant with the PATH program when she failed to attend or reschedule her PATH appointment by April 22, 2013.
6. The Department conducted a triage meeting on April 30, 2013.
7. On April 24, 2013, the Department notified the Claimant that it would sanction her FIP benefits as of June 1, 2013.
8. The Department received the Claimant's request for a hearing on May 6, 2013, protesting the sanctioning of her FIP 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 (RTM), and the Bridges Reference Manual (BRM).

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:

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.

Unplanned Event or Factor : Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

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 June 1, 2013, and the Department had referred her to the PATH program as a condition of receiving FIP benefits. On March 29, 2013, the Claimant's medical

service provider signed a Medical Needs – Path (DHS-54E) that indicated the Claimant is capable of participating in the PATH program. On April 5, 2013, the Department notified the Claimant that she was scheduled for an appointment with the PATH program at 8:30 a.m., on April 15, 2013. The Claimant was noncompliant with the PATH program when she failed to attend or reschedule her PATH appointment by April 22, 2013. The Department conducted a triage meeting on April 30, 2013, where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. The Claimant failed to attend the triage meeting and the Department determined that she did not have good cause for her noncompliance based on the available information. On April 24, 2013, the Department notified the Claimant that it would sanction her FIP benefits as of June 1, 2013.

The Claimant did not dispute that she failed to attend the April 15, 2013, appointment with the PATH program. The Claimant argued that she had good cause for her noncompliance with the PATH program. The Claimant testified that her own medical condition was a barrier to her attendance and participation in the PATH program. The Claimant testified that she was required to care for her son, and that his condition was a barrier to her participation in the PATH program. The Claimant provided medical documentation supporting her argument.

This Administrative Law Judge finds that the medical documentation provided by the Claimant does not support a finding that the Claimant is disabled and is not capable of participating in the PATH program. The evidence does not support a finding that the Claimant had a medical condition that was a barrier to her attending or rescheduling her appointment at the PATH program from April 15, 2013, to April 22, 2013.

The Claimant failed to present evidence supporting a finding that her son's condition was a barrier to her attendance at the PATH program at the triage meeting or the administrative hearing.

Based on the evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for her 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 Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The Department will apply policies associated with a Family Independence Program (FIP) related noncompliance and budgets the last FIP grant amount into the Food Assistance Program (FAP). The FIP grant is removed from the FAP budget at the end of the FIP penalty period. For individuals serving a lifetime sanction, Bridges will remove the FIP income from the FAP budget once the individual reaches their FIP

lifetime time limit. Department of Human Services Bridges Eligibility Manual (BEM) 233B (January 1, 2013), p 3.

Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. For the first occurrence, the Department will disqualify the person for one month or until compliance, whichever is longer. For a second or subsequent occurrence, the Department will disqualify the person for six months or until compliance, whichever is longer. BEM 233B, p 5.

A noncompliant person must serve a minimum one-month or six-month disqualification period unless the disqualified person meets one of the following criteria:

- Complies with work assignments for a cash program.
- Obtains comparable employment in salary or hours to the job which was lost.
- Meets a deferral reason other than unemployment benefit (UB) application/recipient.
- Leaves the group. BEM 233B, p 8.

The findings of fact, conclusions of law, decision and order, and Department exhibits entered into the record as exhibits 1 - 139 are all incorporated into this decision in their entirety by reference.

On March 18, 2013, the Department sent the Claimant notice that he would be disqualified from his Food Assistance Program (FAP) benefit group and his monthly FAP allotment would be reduced to \$ [REDACTED] for a group of two active members.

On May 7, 2013, this Administrative Law Judge found that the Claimant had been noncompliant with the Partnership Accountability Training Hope (PATH) program without good cause.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly disqualified the Claimant from the Food Assistance Program (FAP) group and reduced his monthly FAP allotment in accordance with Department of Human Services Bridges Eligibility Manual (BEM) 233B.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.

The Department's FIP sanction is **AFFIRMED**. It is **SO ORDERED**.

/s/

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 26, 2013

Date Mailed: June 26, 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
Recons ideration/Rehearing Request
Lansing, P. O. Box 30639
Michigan 48909-07322

2013-46315/KS

KS/kl

cc:

