

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 201346936
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 10, 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 June 10, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, [REDACTED], Specialist, [REDACTED], PATH Coordinator, and [REDACTED], PATH representative.

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 an ongoing PATH participant.
3. Claimant had a 40 hour weekly PATH obligation.
4. Claimant failed to attend PATH on 4/25/13 and missed two hours of participation on 4/26/13.

5. On 5/3/13, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 6/2013, due to noncompliance with PATH participation.
6. On 5/3/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage meeting to be held on 5/9/13.
7. Based on Claimant's request, the triage was rescheduled for 5/15/13.
8. Claimant attended the triage and claimed good cause for missing PATH on 4/25/13 due to a funeral and for two hours on 4/26/13 due to a dentist appointment.
9. DHS determined that Claimant had no good cause for the alleged employment-related noncompliance.
10. On 5/10/13, 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).

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

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 (1/2013), 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 alleged that Claimant missed a full day of PATH on 4/25/13 and appeared at 11:00 a.m. for a 10:00 a.m. workshop on 4/26/13. DHS did not convert the absences into missed hours but it was not disputed that Claimant had a forty hour PATH obligation. A 40 hour weekly obligation, presumably, breaks down into required attendance of five days per week for eight hours each day. Thus, it appears that the basis for noncompliance was 10 hours of absences by Claimant.

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 addition to good cause, DHS regulations also consider a client's excused absences. In a DHS policy section captioned "Excused Absences", it is noted that a client's participation in an unpaid work activity may be interrupted by occasional illness or

unavoidable event. BEM 230A (1/2013), p. 18. A WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

DHS has completely separate policy sections between excused absences and good cause. Excused absences impact whether absences amount to noncompliance; good cause considers whether there is an excuse for apparent noncompliance. A claim of good cause must be verified. *Id.* at 3. There is no explicit requirement for a client to verify an excused absence. Excused absences are capped; absences from good cause are uncapped. These differences justify factoring excused absences in determining whether a client was WPP noncompliant.

The testifying WPP representative suggested that clients must verify any absence from WPP. DHS regulations do not support this requirement. The WPP can require verification of an excused absence from a client but the requirement is not necessarily enforceable at an administrative hearing if DHS regulations contradict the requirement.

In the present case, it was not disputed that Claimant failed to complete 10 hours of PATH attendance. The PATH representative conceded that Claimant had no other absences in 4/2013. Claimant's hourly absences were within the amount allowed by DHS' excused absence policy. It is found that Claimant's absences from WPP should have been considered excused absences.

There was some testimony suggesting other reasons for the finding of noncompliance. It was not disputed that Claimant happened to miss two days of PATH where he was to attend an employment workshop on each day. The fact that Claimant missed workshops is not found to alter the above reasoning.

It was also alleged that Claimant was abusive and threatening. Based on the presented testimony, there was no persuasive evidence supporting the claim. Claimant conceded telling his PATH worker, "You suck." Though the statement lacks charm, it is neither particularly threatening nor abusive, at least not to the point of supporting a basis for noncompliance.

Based on the presented evidence, DHS failed to establish that Claimant was noncompliant with WPP participation. Accordingly, it is found that DHS improperly terminated Claimant's FIP benefit eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefit eligibility effective 6/2013. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefit eligibility effective 6/2013, subject to the finding that Claimant was complaint with WPP participation;
- (2) supplement Claimant for any benefits lost as a result of the improper finding of noncompliance;

- (3) remove any disqualification from Claimant's disqualification history as a result of the improper finding of noncompliance.

The actions taken by DHS are REVERSED.



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

Date Signed: 6/19/2013

Date Mailed: 6/19/2013

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: 

