

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201322106
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Washtenaw (20)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 6, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly closed Claimant's Family Independence Program (FIP) benefits due to Claimant's noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

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 a FIP recipient and a mandatory PATH participant.
2. On December 1, 2012, the Department mailed Claimant a Work Participation Program Appointment Notice (DHS-4785) which scheduled her to attend an appointment on December 17, 2012 at 9:00a.m.
3. On December 28, 2012, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) because she failed to call or attend the December 17, 2012 appointment. The Triage appointment was scheduled for January 3, 2013 at 1:00p.m.

4. On January 3, 2013, Claimant did not attend Triage. The Department found Claimant did not show good cause.
5. The Department mailed Claimant a Notice of Case Action (DHS-1605) on December 28, 2012 which imposed a 3 month penalty and closed Claimant's FIP case effective February 1, 2013.
6. Claimant submitted a hearing request on January 9, 2013 protesting the closure of her FIP benefits.
7. This is Claimant's first non-compliance with the PATH program.

CONCLUSIONS OF LAW

Department 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), also referred to as "cash assistance," 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.

Effective January 1, 2013, as a condition of eligibility, FIP applicants must attend the Partnership Accountability Training Hope (PATH) program and maintain 21 days' attendance. BEM 229. The program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. BEM 229.

A Work Eligible Individual (WEI) and non-WEI¹, who fails to participate in employment or self-sufficiency-related activities without good cause, must be penalized. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. BEM 233A. The goal is to bring the client into compliance. BEM 233A.

Mandatory PATH clients are referred to PATH upon application for FIP, when a client's reason for deferral ends, or a member add is requested. BEM 229. Bridges will automatically issue a DHS-4785, PATH Program Appointment Notice, from Bridges at

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229.

Generally speaking, federal and state laws require each work eligible individual (WEI) in the FIP and Refugee Assistance Program (RAP) group to participate in the PATH Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment. BEM 230A. WEIs not referred to the work participation program will participate in other activities to overcome barriers so they may eventually be referred to the work participation program or other employment service provider. BEM 230A. 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.

Good cause may exist when Claimant is confronted with an unplanned event which is defined as the following “credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities.” See BEM 233A. Unplanned events or factors include, but are not limited to, the following: (1) domestic violence; (2) health or safety risk; (3) religion; (4) homelessness; (5) jail and (6) hospitalization. BEM 233A.

An applicant, recipient or a member add is noncompliant if he or she, without good cause, fails or refuses to do any of the following: (1) appear and participate with the JET Program or other employment service provider; (2) complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process; (3) develop a FSSP or a Personal Responsibility Plan and Family Contract (PRPFC); (4) comply with activities assigned to on the FSSP; (5) provide legitimate documentation of work participation; (6) appear for a scheduled appointment or meeting related to assigned activities; (7) participate in employment and/or self-sufficiency-related activities; (8) accept a job referral; (9) complete a job application; (10) appear for a job interview.² BEM 233A.

PATH participants will not be terminated from a PATH program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines. BEM 233A. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. BEM 233A. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. BEM 233A. Clients must comply with triage requirement within the negative action period. BEM 233A.

² The Department will not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. BEM 233A.

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.** If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A. 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.

The penalty for noncompliance without good cause is FIP closure. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A.

Here, the Department submits that Claimant failed to call or show for a mandatory appointment on December 1, 2012. Claimant, on the other hand, contends that she had good cause for her noncompliance because she had been a victim of domestic violence and that her mail had been intercepted during the period of time in question. Claimant also states that she was in the emergency room on December 17, 2012.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Both parties agreed that Claimant's FIP case had been transferred from Wayne County to Washtenaw County. Claimant was granted a domestic violence deferral while in Wayne County during the summer of 2012. In October 2012, Claimant relocated from Wayne County to Washtenaw County. The record shows that Claimant's deferral ended after she left Wayne County. Claimant provided a discharge sheet from [REDACTED] in [REDACTED] which indicated that she visited the emergency room on December 17, 2012. Claimant did not attend Triage on January 3, 2013 because her mail had been intercepted.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that Claimant provided sufficient documentation verifying that she visited the hospital on December 17, 2012. This constitutes good cause due to a documented, verified unplanned event which prevented her from attending the December 17, 2012 appointment. This Administrative Law Judge also finds that Claimant's failure to attend the Triage was justified because her testimony that her mail had been intercepted was credible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly closed Claimant's FIP case for noncompliance with PATH requirements and the 3 (three) month sanction is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- Initiate a reinstatement of Claimant's FIP case.
- Initiate a reengagement of Claimant into the PATH program.
- Provide Claimant with any retroactive and/or supplemental FIP benefits Claimant is entitled to receive only to the extent applicable policies require the Department to do so.

IT IS SO ORDERED.

/s/_____

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 7, 2013

Date Mailed: June 10, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

CAP/aca

cc:

