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

IN THE MATTER OF:



Reg. No:2013-28485Issue No:1038Case No:1038Hearing Date:March 19, 2013Wayne County DHS #19

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge by authority of MC L 400.9 and MCL 400.37. Claimant's Reques t for a Hearing was received on February 5, 2013. After due notice, a telephone hearing was held on Tuesday , March 19, 2013. The claimant personally appeared and testified on her own behalf with her daughter and aut horized representative, FIM, FIS, and FIM, ES.

ISSUE

Whether the Department of H uman Servic es (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance wit h the Jobs, Education, and Training (JET) program?

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 a recipient of FIP benefits, which required her to participate in the PATH program because she was found to work ready with limitations from the Medical Review Team (MRT). Department Exhibit 1.
- 2. On January 2, 2013, the claimant wa s sent a PATH Appointment Notice, DHS 4785, to attend Path on January 15, 2013. Department Exhibit 2.
- 3. On Januar y 31, 2013, the claim ant was being triaged becaus e she failed to contact PATH by January 29, 2013 to re-engage in the PATH program.
- 4. On January 31, 2013, the claimant was sent a Notice on Noncompliance (DHS-2444) requesting a triage meeting on February 8, 2013. Department Exhibit 7.

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- 5. The Department conducted a t riage m eeting on February 8, 2013 wher e the determination was made that the clai mant did not have good cause for not complying with the PATH requirements.
- 6. On January 31, 2013, the D epartment notified the Claim ant that it would c lose the claimant's FIP benefits as of March 1, 2013. Department Exhibit 8-11.
- 7. The Department received the Claimant's request for a hearing on February 5, 2013, protesting the closing of the claimant's FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconc iliation Act of 1996, P ublic 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 Ai d to Dependent Children (ADC) program effective October 1, 1996. De partment policies are found in the Bridges Administrative Manual (BAM), the Bridges Elig ibility Manual (BEM), Refe rence Table Manual (RF T), and the Bridges Reference Manual (BRM).

Department policy states that cients 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. BEM 229, page 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 employmentrelated activity unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or selfsufficiency 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. 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). A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. For more about penalties; see BEM 233A. See BEM 230B and BEM 233B for FAP employment requirements. BEM 230A, page 1.

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NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

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:

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.

The specialist should clear any alerts in Bridges relating to rejected PATH referrals and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

Develop a FSSP.

A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.

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, pages 1-2.

The Department is required to send a DHS -2444, Notice of Employment and/or Self Sufficiency Related Noncompliance within n three days after learning of the noncompliance which must in clude the date of noncompliance e, the reason the client

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was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

Good cause is a valid reason for nonc ompliance wit h employ ment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant per son. A claim of good c ause must be verified and doc umented 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 PAT H. 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 ident ified by the client) and unmet needs for accommodation. BEM 233A.

The penalty for noncompliance without good caus e is FIP closure. Effective October 1, 2011, the following minimum penalties apply:

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP INDIVIDUALS AND MEMBER ADDS

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, Item 233A.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count.

Noncompliance, without good cause, with employment r equirements for FIP/RAP(SEE BEM 233A) may affect FAP if both progr ams were active on the date of the FIP noncompliance. BEM 233b. The FAP group member should be disqualified for noncompliance when all the following exist:

- The client was active bot h FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply wit h FIP/RAP employment requirements, and

- The client is s ubject to a penalty on the FIP/RA P program, and
- The client is not deferred from FAP work requirements, and
- The c lient did not have good c ause for the noncompliance. BEM 233B.

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the 1 st noncompliance, 6 months for 2 nd nonc ompliance, and a lifetime for the third noncompliance) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP gr ant amount is the grant amo unt the client received immediately before the FIP case closed. BEM 233B.

The Claimant was an ongoing Family Independenc e Program (FIP) recipient. The Department had referred the claimant to the PATH program as a condition of receiving FIP benefits. The Claimant was noncompliant with the PATH program on January 31, 2013 because she failed to re-engage in PATH caseworker by January 29, 2013. The Department conducted a triage meeting on February 8, 2013 and it was determined that the claimant did not have good cause for noncompliance with the PATH program.

Based on t he evidence and testimony available during the hearing, the Department's determination that the Claim ant did not have good cause for PATH noncompliance with the PAT H program is reasonable. The Department has established that it acted properly when it closed the Claimant's FIP benefits for noncompliance with the PAT H program. This is the claimant's 1st sanction where her FIP benefits will be cancelled for 3 months, but the claimant can reapply during the last month of her sanction.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides that the D epartment acted in accordance with policy when it sanctioned the Claimant's FIP case for r noncomplianc e with the PATH program. This is the claimant's 1st sanction where her FIP benefits will be cancelled for 3 months, but the claimant can reapply during the last month of her sanction.

The Department's FIP sanction is **AFFIRMED**.

/s/

Carmen G. Fahie Administrative Law Judge for Maura D. Corrigan, Director Department of Human Services

Date Signed: April 5, 2013

Date Mailed: April 5, 2013

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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 <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration <u>MAY</u> 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 to:

Re Michigan Administrative hearings consideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

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CC:

