

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

IN THE MATTER OF: Reg.

No: 201336062

Issue No: 1038

Case No: [REDACTED]

Hearing Date: April 24, 2013

County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 13, 2013. After due notice, a telephone hearing was held on April 24, 2013. Claimant appeared and provided testimony. Claimant's boyfriend, [REDACTED] also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED] an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department properly denied Claimant's Family Independence Program (FIP) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 7, 2013, Claimant applied for FIP benefits.
2. On February 7, 2013, Claimant's FIP group member, [REDACTED] signed a document titled "Work and/or Self-Sufficiency Rules for Cash Recipients" and, in doing so, acknowledged with his signature his understanding of the requirements of the Partnership, Accountability, Training, Hope (PATH) program including, among other things, that he just attend the PATH program within 15 days of the notice and must continue to participate or Claimant's FIP application would be denied. (Department Exhibit 3)

3. On February 8, 2013, the department mailed Claimant's FIP group member, [REDACTED], a PATH Appointment Notice (DHS-4785), notifying him of his required attendance at the PATH Program on February 19, 2013 at 8:30 a.m. The Notice further advised that [REDACTED]' failure to attend the work participation program will result in the denial of benefits. The Notice further advised that if [REDACTED] was unable to keep this appointment, he must call and reschedule the appointment before the scheduled appointment date. (Department Exhibit 1)
4. Claimant's group member, [REDACTED] neither attended nor called in advance to reschedule his February 19, 2013 appointment. (Department Exhibit 2)
5. On February 26, 2013, the department mailed Claimant a Notice of Case Action for her group member's failure to participate as required in employment and/or self-sufficiency related activities. The Notice indicated that, effective March 1, 2013, her application for FIP benefits had been denied because her group member failed to attend the PATH program. (Department Exhibit 4)
6. On March 13, 2013, Claimant submitted a hearing request protesting the department's denial of her application for FIP benefits.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. Mich Admin Code R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1.

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 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 (RFT), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that 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 the department when the client applies for cash assistance.

Effective January 1, 2013, as a condition of FIP eligibility, FIP applicants must attend the PATH program (formerly JET program) and maintain 21 days' attendance. BEM 229. PATH program requirements, education and training opportunities, and assessments are covered by the PATH case manager when a mandatory PATH participant is referred at application. BEM 229.

Federal and State laws require each work eligible individual (WEI) in the FIP group to participate in the PATH program or other employment-related activities 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 stable employment. PATH is a program administered by the Michigan Department of Licensing and Regulatory Affairs (LARA) through the Michigan Works Agencies (MWAs). The PATH program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A.

A spouse or parent who provides care for a spouse or child with disabilities living in the home is not a WEI and is not referred to PATH if:

- The spouse/child with disabilities lives with the spouse/parent providing care.
- A doctor verifies all of the following in writing or by using a DHS- 54A, Medical Needs, form or DHS-54E, Medical Needs-PATH:
 - The spouse/child with disabilities requires a caretaker due to the extent of the disability.
 - The spouse/parent is needed in the home to provide care.
 - The spouse/parent cannot engage in an employment-related activity due to the extent of care required. BEM 230A.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- . Failing or refusing to:
 - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.

- .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (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.
- .. 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.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. BEM 233A. The standard of promptness for processing the FIP application begins the date the department receives the application/ filing form, containing the minimum required information. The department then has 45 days to certify program approval or denial of the FIP application. BAM 115.

In this case, Claimant applied for FIP benefits on February 7, 2013. On February 8, 2013, the department mailed Claimant's FIP group member, [REDACTED], a PATH Appointment Notice (DHS-4785), notifying him of his required attendance at the PATH Program on February 19, 2013 at 8:30 a.m. The Notice further advised that [REDACTED], failure to attend the work participation program will result in the denial of benefits. The Notice further advised that if [REDACTED] was unable to keep this appointment, he must call and reschedule the appointment before the scheduled appointment date. [REDACTED] neither attended nor called in advance to reschedule his February 19, 2013 appointment and, because the department's 45 days to certify program approval or denial were still in effect, Claimant's application was denied for noncompliance. A

Triage was not scheduled to determine good cause in this case because a good cause determination is not required for applicants who are noncompliant prior to the FIP case being opened.

At the April 24, 2013 hearing, Claimant testified that [REDACTED] did not attend his February 19, 2013 appointment because his presence at home was needed in order to care for her and her medical condition. However, Claimant acknowledged that neither she nor her group member called the department in advance of missing [REDACTED], appointment to report his need to remain at home. Moreover, there is no dispute that [REDACTED] is not Claimant's spouse and therefore he does not qualify for a deferral from the PATH program as a spouse who provides care for a spouse with disabilities living in the home under BEM 230A.

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). Moreover, 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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the hearing, the department properly denied Claimant's FIP application for noncompliance when her group member failed to attend the mandatory WF/JET orientation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied Claimant's FIP application for noncompliance when her group member failed to attend the mandatory WF/JET orientation. The department's actions are therefore **UPHELD**.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 26, 2013

Date Mailed: April 29, 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 this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

