

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201345453
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 25, 2013
County: Calhoun

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 25, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker) and [REDACTED] (PATH Coordinator).

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP) benefits because Claimant was subject to a lifetime sanction after a third 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 applied for FIP on April 20, 2013.
2. On April 29, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's application effective May 16, 2013 due to ineligibility arising out of a lifetime FIP penalty sanction.
3. Claimant submitted a hearing request on May 2, 2013 protesting the denial of her FIP application.

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 sanction period begins with the first pay period of a month. BEM 233A. Penalties are automatically calculated by the entry of noncompliance without good cause in the Department’s computer system known as Bridges. This applies to active FIP cases, including those with a member add who is a WEI work participation program participant. BEM 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. BEM 233A. The sanction period begins with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member add who is a WEI work participation program participant. BEM 233A. Bridges applies noncooperation penalties at an individual level. BEM 233A. Two parent families will have two individual penalty counters. The FIP EDG penalty is applied based on the individual with the highest penalty counter. BEM 233A. In a two parent family, one parent has to reach his/her individual penalty count of three for the case to close for a lifetime sanction. BEM 233A.

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

Here, the Department contends that Claimant was ineligible for FIP at the time she applied because she had three previous instances of noncompliance with the then-Jobs, Education Program (JET), currently PATH. Claimant, on the other hand, contends that she only recalled this as her second noncompliance with JET/PATH.

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. The record shows that the Department is correct and Claimant is ineligible for FIP due to having 3 (three) instances of noncompliance with the JET/PATH program. As such, Claimant is under a lifetime sanction. Claimant was not aware that her first noncompliance sanction was on January 7, 2011 after she signed a DHS-754 agreement that resulted in an admission of noncompliance but the sanction was waived. The second noncompliance dated May 10, 2011 resulted in a 3 month FIP penalty. Claimant's third, and final, noncompliance occurred on April 20, 2012, which resulted in a lifetime sanction. Thus, at the time Claimant applied for FIP on April 20, 2013, she was ineligible due to the lifetime sanction.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds Claimant was ineligible for FIP due to a lifetime sanction and the Department properly denied her application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny her FIP application based on the imposition of a lifetime sanction is **AFFIRMED**.

IT IS SO ORDERED.

/s/

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

Date Signed: July 1, 2013

Date Mailed: July 2, 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:

