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

IN THE MATTER OF:



Reg. No.: 2013-52307 Issue No.: 1038, 5034

Case No.: Hearing Date:

July 11, 2013

County: Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on J uly 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Participants on behalf of Department of Human Services (Department) included and

<u>ISSUE</u>

Did the Department properly terminat e and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with PATH?

Did the Department properly deny the Claimant's application for State Emergency Relief (SER)?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

- 1. As of October 17, 2011, the Claimant was enrolled in the Work First/Jobs, Education and Training ("WF/JET" now known as PATH).
- 2. The Claimant failed to turn in her job as signments for the weeks o f October 30, 2011, November 6, 2011 and November 13, 2011.
- 3. On November 28, 2011, the Departm ent sent the Claimant a notice of noncompliance.
- 4. On December 5, 2011, the Claim ant called to reschedule her triage appointment. The triage was rescheduled for December 20, 2011.

- 5. On December 20, 2011, the Claimant failed to appear for the triage. The Department determined the Claimant did not have good cause for the findings of noncompliance and proceeded to sanct ion and close the Claimant's FIP case.
- 6. On February 9, 2012, a hearing wa sheld by ALJ C. Adam Purnell regarding the Department's closure and sanctioning of the Claimant's FIP case.
- 7. On February 15, 2012, ALJ Pur nell found in the Department's favor and affirmed the Department's actions.
- 8. On April 1, 2013, the Claimant enrolled in the PATH program and signed the customer release of information, the AEP contract, the PATH contract, the noncompliance process and policy, the PATH job search check in dress code, and the AEP/PATH code of conduct.
- 9. On or around April 22, 2013, the Claimant's ubmitted to PATH a volunteer service form. The form indicated volunteer service at Senior Services.
- 10. On May 3, 2013, PATH issued t he Claim ant a nonc ompliance warning notice. The notice was issued for failing to submit job search logs for April 21, 2013 and April 28, 2013 as well a s failing to attend a sc heduled meeting on May 2, 2013 at 1:30 pm. The notice indicated the Claimant must attend a re-engagement meeting on May 7, 2013.
- 11. On May 7, 2013, PATH provided the Claimant with a re-engagement agreement. The re-engagement came with a stipulation the Claimant submit a verification of employment to the case manager by May 10, 2013 at 4:00 pm. The Claimant agreed to the stipulation.
- 12. On May 10, 2013, the Claimant arrived for her prescheduled appointment. At the time of the appointment , the Claimant had not yet obtained the necessary verification of employment information. Just prio r to the appointment, the Claimant a sked PATH to fax the request of information sheet to the employer. With so me difficulty, PATH suc cessfully transmitted the request for information page to the Claimant's employer.
- 13. At the end of the day on May 10, 2013, the Claimant had still not turned in the requested employment verification information.
- 14. On May 10, 2013, PATH issued the Claimant a triage meeting notice.
- On May 13, 2013, the Depart ment s ent the Claimant a notice of case action and notice of noncompliance. T he notice of noncompliance e indicated a triage was to take place on May 23, 2013.

- 16. On May 15, 2013, the Claimant called the Department and left a message indicating she needed the triage to be scheduled after June 12, 2 013 due to issues with her son's IEP.
- 17. On or around May 15, 2013, the D epartment returned the Claimant's call and spoke with the Claimant. A discussion ensued covering the topic of the triage. At this time, the Claimant indicated she would be at the triage as she really only needed to make sure the triage wasn't scheduled for the week of May 12, 2013 as this was the week she had meetings with her son's school for her son's IEP review.
- 18. On May 23, 2013, the Claimant did not appear for the triage at the scheduled start time and it was held in the Claimant 's absence. The Department determined the Claimant did not have good cause.
- 19. At some point in tim e during t he time period in question, the Claimant applied for SER indicating a need fo r automotive repairs. That SER application was denied.
- 20. On June 4, 2013, the Claimant requested a hear ing to dis pute the Department's denial of SER and closure and sanctioning of the FIP case.

CONCLUSIONS OF LAW

The FIP was established pursuant to the Per sonal Res ponsibility 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 Elig ibility Manual (BEM) and the Program Reference Manual (PRM).

The SER program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1999 AC, R 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

DHS requires clients to participate in employ ment and self-sufficiency-related activities and to accept employ ment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty po licy is to obtain client compliance with appropriate wor k and/or self-sufficiency-related assignment s and to ensure t hat barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

A Work Eligible Indiv idual (WEI), see <u>BEM 228</u>, w ho fails, wit hout good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

 As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

Good cause is a v alid reas on for noncom pliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A cl aim of good cause must be verified and documented for member adds and recipients. Document t he good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

The penalty for noncomplianc e without good c ause is FI P closure. Effe ctive April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for 3 calendar months unless the c lient is excused from the noncompliance as noted in "F irst Case Noncomplianc e Without Loss of Benefits" below.
- For the second occur rence on the FIP case, close the FIP for 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

Determine good caus e 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.

If the client does NOT provid e a good caus e reason within t he negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. BEM 233A, pp. 10-11.

Testimony and other evidence must be we ighed and considered according to its reasonableness. Moreover, the weight and credibi lity of this evidence is generally for the fact-finder to determine. In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness is testimony, and the interest, if any, the witness may have in the outcome of the matter.

¹ *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).

² Dep't of Community Health, 274 Mich App at 372; People v Terry, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ People v Wade, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's witnesses to be more credible than the Claimant as the Department witnesses had a clearer grasp of the dates, times and events in question. Additionally, the Claimant failed to produce any evidence to corroborate her claims (records, faxes etc) that she had compelied with all PAT. Her equirements and the Department had been removing records from her file.

Additionally, the employment verifications were due by 4:00 p.m. on May 10, 2013. The Claimant agreed to this on May 7, 2013. The Claimant failed to produce any evidence of good clause to show why or how she was unable to obtain the information that was being requested. The Claimant had the responsibility to obtain the information from her employer. I do not find it reasonable for the Claimant to turn around and indicate but for the Department's fax machine is sue she would have submitted the documents on time. The documents were due at 4:00. The Claimant arrived at approximately shortly before 4:00 requesting the Department to send documentation to the employer. Even had the fax gone through on the first attempt, there is no guarantee the employer would have turned around and submitted the requested information on time by 4:00. The Claimant knew about the deadline for several days. The Claimant's lack of effort is inexcusable.

Furthermore, the Claimant alleges the De partment removed documentation from her file, specifically the plans and job logs. The Claimant indicated she had evidence of this (testimony from other witnesses), but failed to present anyone to testify.

The Claimant also had an issue with the tri age. The Claimant indi cated she was late due to an IEP for her son. The triage notic e is very clear that in or der to participate in the triage, the Claimant must be on time or reschedule prior to the start time. The Claimant agreed she was late and there is no evidence that the Claimant requested a rescheduling after May 15, 2013 (when she indic ated she would be there after requesting a rescheduling). Additionally, in review of the MIS notes, I found the Claimant to have a long history of rescheduling due to IEP's and missing appointments.

Consequently, based upon the evidence presented, I find the Claimant indeed failed to adhere to PATH policies by failing to keep her scheduled appointments and failing to submit completed job logs. Additionally, I find no evidence of good cause and therefore affirm the Department's decision to close and sanction the Claimant's FIP case.

SER preve nts serious harm to i ndividuals and familie s. SER assists applic ants with safe, decent, affordable hous ing and other essential needs when an emergency situation arises. ERM 101. SER does not cover automobile repairs. There is no such service under the SER program.

Therefore, I find the Department acted a ccordingly, in denying the Claimant's SER application for automobile repairs.

Accordingly, I **AFFIRM** the Department's actions in this matter.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

- 1. The Department properly closed and sanctioned the Claimant's FIP benefits for noncompliance with PATH requirements.
- 2. The Department properly denied the Claimant's SER application for automobile repairs.

Accordingly, the Department's actions are **AFFIRMED**.

Corey A. Arendt Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: July 17, 2013

Date Mailed: July 17, 2013

NOTICE: Michigan Administrative Hearing S ystem (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 **MAY** be granted if there is newly discovered evid ence 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 erro r, 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.

2013-52307/CAA

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Recons ideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

CAA/las

CC:

