

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53392
Issue No.: 1005, 1038, 2000, 3029, 3006
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Oakland DHS (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 18, 2013 from Detroit, Michigan. Participants included the above-named claimant, [REDACTED] rs, Claimant's spouse, testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) due to Claimant's noncompliance with Partnership. Accountability. Training. Hope. (PATH) participation.

The second issue is whether DHS properly terminated Claimant's and her spouse's eligibility for Food Assistance Program (FAP) benefits due to an alleged failure to verify employment income.

The third issue is whether Claimant is entitled to an administrative hearing due to a denial of Medical Assistance (MA) benefits when the children receive MA benefits on another case.

The fourth issue is whether DHS took an adverse action concerning Claimant's and her spouse's MA eligibility.

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 and her spouse were ongoing FIP, FAP and MA benefit recipients.
2. Claimant and her spouse were part of a household that included Claimant's spouse's two children who received ongoing MA benefits.
3. Claimant's spouse was not an ongoing PATH participant.
4. Beginning on an unspecified date, DHS imposed a 21 day obligation on Claimant's spouse to attend PATH as a condition of ongoing FIP eligibility.
5. Claimant's spouse failed to complete the 21 day PATH attendance obligation because of obligations to take his spouse to the hospital.
6. On 5/28/13, DHS imposed an employment-related disqualification against Claimant and her spouse and mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 7/2013, in part, due to noncompliance with PATH participation.
7. On 5/28/13, DHS also terminated Claimant's FAP benefit eligibility due to an alleged failure to verify income and/or an employment-related disqualification.
8. On 5/28/13, DHS also denied Claimant's children's MA benefit eligibility because the children received MA benefits on another case.
9. On 5/28/13, DHS took no adverse actions concerning Claimant's or her spouse's MA eligibility.
10. On 5/28/13, DHS mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage meeting which was held on 6/3/13.
11. DHS determined that Claimant's spouse did not have good cause for the alleged employment-related noncompliance.
12. On 6/12/13, Claimant requested a hearing disputing the FIP and FAP terminations and MA denials.

CONCLUSIONS OF LAW

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant's hearing request noted that Claimant required special arrangements to participate in the administrative hearing. Claimant testified that she was unable to sit for long periods. Claimant was advised that she could stand during the hearing at any time

she became uncomfortable. In response, Claimant agreed that she could participate in the hearing without further special accommodation.

Claimant requested a hearing, in part, to dispute a FIP benefit termination. It was not disputed that the basis for the termination was alleged noncompliance by Claimant's spouse in PATH participation.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (1/2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.* PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

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:

- Appear and participate with the work participation program 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.
- Develop a FSSP.
- 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 (1/2013), p. 1-2

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.* Depending on the case situation, penalties include the following: delay in eligibility at

application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.*

It was not disputed that Claimant's spouse began PATH attendance on 4/23/13. DHS could not assert when Claimant's spouse stopped PATH attendance, but Claimant conceded that her spouse stopped attendance after 4/29/13. On 5/3/13, DHS determined that Claimant's spouse was noncompliant. Thus, Claimant's PATH absences from 4/30/13-5/3/13 are the undisputed dates of absences by Claimant's spouse. DHS contended that Claimant's spouse was obligated to complete a 21 day period of PATH attendance; this is a debatable obligation. Nevertheless, Claimant's spouse's four days of absence is sufficient to establish a basis of noncompliance.

WEIs will not be terminated from a WPP program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.*, p. 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration. *Id.*, p. 8. In addition, a triage must be held within the negative action period. *Id.* If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id.*

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. *Id.*, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.*, p. 4. A claim of good cause must be verified. *Id.*, p. 3.

Claimant's spouse testified that he did not attend PATH because of obligations to take his spouse to the hospital for ongoing treatment appointments. It was not disputed that Claimant had hospital appointments on 4/22/13, 4/24/13, 4/29/13, 5/1/13, 5/6/13 and other dates. Claimant also noted that she cannot drive and requires her spouse to transport her and to care for her at home. She further testified that she was in particularly poor health during the alleged period of noncompliance, as evidenced by her numerous doctor appointments. Claimant's numerous doctor appointments were verified at the triage and at the hearing.

Based on the presented evidence, Claimant's spouse established good cause for PATH absences. Accordingly, it is found that Claimant was compliant with PATH participation.

The DHS Notice of Case Action (Exhibits 1-7) also specified that FIP benefits were terminated due to some failure to give proof of information. DHS presented no evidence to support the termination. Accordingly, the FIP benefit termination was also improper.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS did not address a FAP benefit termination in their Hearing Summary. The DHS Notice of Case Action (Exhibits 1-7) notifying Claimant of the FAP benefit termination listed an employment-related disqualification and a failure to verify income as reasons for the FAP termination.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a penalty on the FIP program;
- the client is not deferred from FAP work requirements; and
- the client did not have good cause for the noncompliance.

BEM 233B (1/2013), p. 2.

Presumably, the basis for the employment-related disqualification was the same basis that supported the FIP benefit termination. It can be found that DHS had no basis for a FAP employment-related disqualification based on the previous finding that Claimant had good cause for the alleged noncompliance.

Also like the FAP benefit analysis, DHS noted a second reason for the adverse action. The Notice of Case Action stated that Claimant failed to provide proof of income. As in the FIP benefit analysis, DHS provided no evidence of the request, the due date or what eligibility factor was in need of verification. Accordingly, the FAP benefit termination was improper.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute an alleged MA benefit termination, for herself and her spouse's children. It was disputed whether any MA benefit termination occurred.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- denial of an application and/or supplemental payments;

- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

BAM 600 (2/2013), p. 3.

The presented Notice of Case Action denied MA benefits to Claimant's spouse's children because they were active on another case. A "denial" of MA benefits for a specific case number is not a denial of benefits intended to justify a hearing request. As long as the children receive MA benefits, there is no adverse action to benefit eligibility. Accordingly, Claimant failed to establish a basis for an administrative hearing concerning her spouse's children's MA eligibility.

Claimant also requested a hearing to dispute an alleged termination of MA benefits. The Notice of Case Action did not specify an MA benefit termination; this is supportive in finding that no adverse action occurred. DHS established that 6 persons in the household received MA benefits through Low-Income-Family (see Exhibit 8). Presumably, the six persons included Claimant, Claimant's spouse and Claimant's four children but not the two children on another case. Based on the presented evidence, Claimant failed to establish any adverse action to MA benefit eligibility.

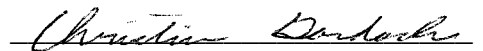
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish any adverse action concerning her, her spouse's or her children's MA benefit eligibility. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP and FIP eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FAP and FIP benefit eligibility, effective 7/2013, subject to the findings that Claimant's spouse was complaint with PATH participation and that there was not a failure to verify income or other information; and
- (2) initiate a supplement for any benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/26/2013

Date Mailed: 7/26/2013

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. (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 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

CG/hw

cc:

