

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

IN THE MATTER OF:



Reg. No.: 2013-56292
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Wayne DHS (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

AMENDED 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 August 1, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist. This hearing decision is being amended for the sole purpose of proper notice of the decision to DHS.

ISSUE

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

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 was an ongoing FIP benefit recipient.
2. Claimant was not an ongoing PATH participant.
3. On 5/9/13, DHS mailed Claimant a PATH Appointment Notice (Exhibit 1) informing Claimant of an appointment on 5/15/13.
4. On 5/15/13, Claimant attended PATH, but was turned away for failing to bring the PATH Appointment Notice.

5. On 5/15/13, DHS mailed Claimant a PATH Appointment Notice (Exhibit 2) informing Claimant of an appointment on 5/22/13.
6. On 5/22/13, Claimant failed to attend her appointment.
7. On 6/5/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Case Action (Exhibits 5-7) initiating termination of Claimant's FIP benefit eligibility, effective 7/2013, due to noncompliance with PATH participation.
8. On 6/5/13, DHS mailed Claimant a Notice of Noncompliance (Exhibits 3-4) scheduling Claimant for a triage meeting to be held on 6/17/13.
9. Claimant failed to attend the triage.
10. DHS determined that Claimant did not have good cause for the alleged employment-related noncompliance.
11. On 6/27/13, Claimant requested a hearing disputing the FIP benefit termination.

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 requested a hearing to dispute a FIP benefit termination. It was not disputed that the basis for the termination was an alleged noncompliance by Claimant 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 DHS informed Claimant of an obligation to attend PATH appointment scheduled for 5/15/13 and 5/22/13. It was not disputed that Claimant was turned away from the appointment dated 5/15/13, because she did not bring her appointment notice. It should be noted that the notice reads, "Bring this form with you to PATH". It was not disputed that Claimant failed to attend PATH on 5/22/13, after DHS rescheduled her appointment. Claimant's failure to attend PATH is found to be a valid basis for 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 testified that she failed to attend her PATH appointment on 5/22/13 because she was in a recent car accident and unable to secure transportation. Claimant testified that she did not have an accident report but she received a letter stating that her car was abandoned. Claimant failed to bring the letter to the hearing. Claimant was given through the end of 8/2/13 to submit the document which would tend to verify that she was in an accident sometime between 5/15/13 and 5/22/13 (the dates of her PATH appointments). On 8/2/13, Claimant submitted a letter dated 5/30/13 verifying that a vehicle was abandoned and that Claimant has 20 days to claim the vehicle. Claimant's submission was not definitive proof of her claim of good cause, but was persuasive enough.

It is problematic for Claimant that she failed to attend a triage appointment and failed to submit documentary evidence of good cause to DHS prior to the hearing. There was a smattering of evidence that Claimant reported the good cause prior to the triage.

Based on the presented evidence, it is found that Claimant established good cause for her absence from PATH. Accordingly, it is found that Claimant was compliant with PATH participation and that DHS improperly terminated Claimant's FIP benefit eligibility.

DECISION AND ORDER

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

- (1) reinstate Claimant's FIP benefit eligibility, effective 7/2013, subject to the finding that Claimant established good cause for a failure to attend PATH;
- (2) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (3) removal of any relevant disqualification from Claimant's or Claimant's spouse's disqualification history.

The actions taken by DHS are REVERSED.



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

Date Signed: 8/20/2013

Date Mailed: 8/20/2013

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:

