

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

IN THE MATTER OF:



Reg. No.: 2013-58248
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne DHS (76)

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 August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) eligibility due to a failure by Claimant to return medical documents.

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 deferred from employment-related activities for medical reasons.
3. Prior to 6/1/13, DHS failed to address Claimant's potential barriers for PATH participation.
4. On 6/1/13, DHS mailed Claimant a PATH Appointment Notice (Exhibit 1) scheduling Claimant for an appointment on 6/10/13.
5. On 6/10/13, Claimant failed to attend the PATH appointment.

6. On 6/20/13, DHS mailed Claimant a Notice of Case Action (Exhibits 2-3) terminating Claimant's FIP eligibility, effective 8/2013, due to noncompliance with employment-related activities.
7. On 6/20/13, DHS mailed Claimant a Notice of Noncompliance (Exhibit 4) scheduling Claimant for a triage to be held on 6/28/13.
8. On 6/28/13, Claimant reported that she should continue to be deferred from employment-related activities.
9. On 6/28/13, DHS mailed Claimant a Medical Determination Verification Checklist (Exhibit 6) giving Claimant until 7/8/13 to return a Medical Examination Report (DHS-49).
10. On 7/10/13, Claimant requested a hearing to dispute 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, 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. DHS regulations 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 alleged noncompliance by Claimant in her PATH attendance obligation.

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 was a FIP recipient deferred from PATH participation for medical reasons. It was not disputed that Claimant asserted a continuing need for deferral based on medical reasons.

DHS is to temporarily defer an applicant with identified barriers until the barrier is removed. BEM 229 (1/2013), p. 2. DHS is to temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities. *Id.* Clients should not be referred to orientation and AEP until it is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated. *Id.*

The above policy specifically addresses FIP applicants. However, DHS does not have a known policy specifically addressing PATH referrals for previously deferred FIP recipients. There is no known reason that DHS would attempt to resolve barriers for FIP applicants but not for FIP recipients prior to sending a client to PATH. Accordingly, the above policy is deemed to also apply for recipients as well as applicants.

DHS mailed Claimant a PATH Appointment Notice but never addressed whether Claimant was ineligible for continued deferral. DHS also made no effort to address Claimant's medical barrier prior to sending Claimant to PATH. Instead, DHS sent Claimant to PATH and only considered deferral while Claimant's FIP eligibility was pending for closure.

As it happened, Claimant was exceptionally inefficient at returning documents supporting a continuing medical deferral. Though it is tempting to fault Claimant for her delays in returning medical documents, had DHS given Claimant the opportunity to return the documents sooner, or referred Claimant to PATH after she had not returned the documents, Claimant may not have missed the PATH orientation or would have returned medical documents prior to case closure.

DHS must address potential barriers prior to referring clients to PATH; DHS failed to address Claimant's barriers prior to sending Claimant to PATH. Accordingly, the subsequent finding of noncompliance causing the termination of Claimant's FIP ineligibility was improper.

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 8/2013, subject to the finding that DHS failed to address Claimant's barriers prior to sending Claimant to PATH;
- (2) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (3) remove any relevant employment-related disqualification from Claimant'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: 8/23/2013

Date Mailed: 8/23/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc:

