

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013  
Issue No.: 1038; 3029  
Case No.: [REDACTED]  
Hearing Date: October 10, 2013  
County: Newaygo County DHS

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

**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. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED]

**ISSUE**

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases for noncompliance with employment and/or self-sufficiency related activities?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a required PATH participant. MRT denied Claimant a medical deferral on 4-8-13.
2. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP and FAP benefits.
3. Claimant went to the orientation. The work first agency presented an oral and visual presentation regarding the paperwork. Claimant did not sign the paperwork as requested and required.
4. The Department conducted a triage meeting..

5. On 5/20/13, the Department notified the Claimant that it would sanction FIP/FAP benefits in accordance with DHS policy and procedure..
6. The Department received the Claimant's request for a hearing on 5-23-13. The DHS reinstated Claimant's benefits pending the outcome of the administrative hearing.
7. Claimant has not had a favorable ruling on social security disability by the Social Security Administration.

### **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 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 1999 AC, Rule 400.3001 through Rule 400.3015.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Federal and state laws require each work eligible individual (WEI) in the FIP and/or FAP 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PATH case managers use the One-Stop Management Information System (OSMIS) to record the clients' assigned activities and participation. Department of Human Services Bridges Eligibility Manual (BEM) 230A (January 1, 2013), p 1.

A work WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p 1; see also BEM 233B.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
- Appear and participate with PATH 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.
- 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.
- Department of Human Services Bridges Eligibility Manual (BEM) 233A (January 1, 2013), pp 2-3.

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. A claim of good cause must be verified and documented for member adds and recipients. BEM 233A, pp 3-4; BEM 233B.

Good cause should be determined 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A; BEM 233B.

Good cause includes the following:

**Employed 40 Hours:** The person is working at least 40 hours per week on average and earning at least state minimum wage.

**Client Unfit:** The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

**Illness or Injury:** The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

**Reasonable Accommodation:** The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

**No Child Care:** The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

**Appropriate:** The care is appropriate to the child's age, disabilities and other conditions.

**Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.

**Suitable provider:.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/ licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.

**Affordable:** The child care is provided at the rate of payment or reimbursement offered by DHS.

**No Transportation:** The client requested transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

**Illegal Activities:** The employment involves illegal activities.

**Discrimination:** The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs.

**Unplanned Event or Factor:** Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

**Comparable Work:** The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

**Long Commute:** Total commuting time exceeds:

- Two hours per day, not including time to and from child care facilities **or**
- **Three hours per day, including time to and from child care facilities.**

**EFIP:** EFIP unless noncompliance is job quit or voluntarily reducing hours of employment.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed; see Benefit Delay for Refusing Employment in this item. BEM 233A.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.

- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction. BEM 233A.

This ALJ's jurisdiction is specific-an ALJ is to review the DHS action and to make a determination if that action is correct under its policy and procedure, and, not contrary to law. Under the facts herein, this ALJ cannot make a determination as to disability; this ALJ must review the proposed sanction and determine if the DHS properly applied its policy and procedure.

Applicable DHS policy and procedure is identified above.

It should also be noted that the DHS is under strict federal mandates under federal law to ensure that recipients of public assistance are participating in job programs, as required under federal law. Failure to do so could result in significant financial penalties against the DHS and the State of Michigan.

In the instant case, as noted above, this ALJ has no jurisdiction to change the MRT determination that Claimant is not disabled from participating in the JET program pursuant to the 4-8-13 MRT determination. (Although, ALJs do have jurisdiction rule on medical disability denials that are not JET related for the MA program; that is not before the undersigned ALJ.) Here, the DHS proposes to sanction Claimant in accordance with the DHS policy and procedure under the FIP and corresponding FAP policy and procedures. The DHS claims that Claimant failed to comply. Claimant contends that he has good cause for not complying as he claims that "I cannot read or write....I have an IQ test..."

The facts herein indicate that Claimant failed to sign the necessary paper work at the orientation. The facts herein indicate that prior to requesting that participates sign the paperwork, the work first agency gave all participants a visual "presentation. Claimant's Neuropsychological evaluation of 9-19-13 states in part:

...[Claimant] will struggle to understand information presented to him in a verbal format without additional instruction and guidance. When information is hands-on or presented in a visual manner, [Claimant] will be able to demonstrate his knowledge with only mild difficulty.

Claimant presented no information that he has or has been approved social security disability.

As noted in the findings of fact, the record indicates that Claimant was presented with the necessary information in a visual presentation. Under these facts, and in conjunction with the overall facts, evidence and testimony in this case, this ALJ must find that the DHS has met its burden of proof by a preponderance of evidence that Claimant did not comply with the JET program.

Claimant was an ongoing Family Independence Program (FIP) recipient. The Department had referred Claimant to the PATH program as a condition of receiving FIP and FAP benefits as required by Congress, federal law and state policy. Claimant did not sign that orientation paperwork and failed to rebut the facts by a preponderance of evidence that he had good cause for failing to do so. This ALJ must uphold the proposed actions by the DHS. The DHS actions comply with federal mandates and are consistent with policy and procedure.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it proposed to sanction Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.

The Department's FIP and any FAP sanctions is hereby **AFFIRMED**. It is SO ORDERED.

/s/  
\_\_\_\_\_  
Janice Spodarek  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 10/29/13

Date Mailed: 10/29/13

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

JGS/hj

cc:

