

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

IN THE MATTER OF:



Reg. No.: 201369375
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: October 24, 2013
County: Macomb

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 October 24, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. 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) case 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. The Claimant was an ongoing Family Independence Program (FIP) recipient.
2. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.
3. On July 23, 2013, the Department notified the Claimant that she had been scheduled for PATH programming for August 5, 2013.
4. On August 8, 2013, the Department notified the Claimant that she had been scheduled for PATH programming for August 12, 2013.

5. The Claimant was noncompliant with the PATH program when she failed to attend PATH programming on August 12, 2013.
6. The Department conducted a triage meeting on September 19, 2013.
7. On September 11, 2013, the Department notified the Claimant that it would sanction her FIP benefits as of October 1, 2013.
8. The Department received the Claimant's request for a hearing on September 19, 2013, protesting the sanctioning of her FIP benefits.

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.

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 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 (October 1, 2013), p 1.

A 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.

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.

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.

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.

In this case, the Claimant was an ongoing Family Independence Program (FIP) recipient until October 1, 2013, and the Department had referred her to the PATH program as a condition of receiving FIP benefits. On July 23, 2013, the Department notified the Claimant that she had been scheduled for PATH programming for August 5, 2013. On August 8, 2013, the Department notified the Claimant that she had been scheduled for PATH programming for August 12, 2013. The Claimant was noncompliant with the PATH program when she failed to attend her scheduled programming on August 12, 2013. The Department conducted a triage meeting on September 19, 2013, where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. The Claimant did not attend the triage meeting and the Department determined that she did not have good cause for her noncompliance based on the available information. On September 11, 2013, the Department notified the Claimant that it would sanction her FIP benefits as of October 1, 2013.

The Claimant testified that she attempted to attend programming on August 5, 2013, but was turned away because she brought her children along. The Claimant testified that she did not receive notice of the August 12, 2013, programming.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the Claimant failed to rebut the presumption of receipt.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department has established that it gave the Claimant timely and sufficient notice of her August 12, 2013, PATH appointment. No evidence was presented during the hearing that the Claimant attempted to reschedule her missed appointment.

The Claimant argued that since she received notice that her benefits would be sanctioned, she did not believe that it was necessary to attend the triage meeting.

However, this was the Claimant's opportunity to establish good cause for her noncompliance. Since the Claimant failed to attend this meeting, the Department appropriately determined good cause without her input.

The Department established that it gave the Claimant the opportunity to establish good cause, and that it properly determined that no good cause was present based on the available information during the triage meeting.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 2.

Based on the evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for her noncompliance with the PATH program is reasonable. The Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with self-sufficiency related activities.

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 sanctioned the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for noncompliance with the Partnership, Accountability Training, Hope, (PATH) program.

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.

/s/

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed:10/29/2013

Date Mailed:10/29/2013

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

KS/sw

cc:

