

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-65528
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 16, 2013
County: Oakland DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 16, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) and reduced Claimant's Food Assistance Program (FAP) eligibility due to Claimant's boyfriend's 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 and her boyfriend were ongoing FAP benefit recipients.
2. Claimant and her boyfriend were ongoing FIP benefit recipients.
3. Claimant and her boyfriend were ongoing PATH participants.
4. Claimant's boyfriend had a 35 hour per week obligation to attend PATH.

5. On [REDACTED]/13, Claimant gave birth to her boyfriend's child.
6. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant's boyfriend and mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 9/2013, due to her boyfriend's noncompliance with PATH participation.
7. On [REDACTED]/13, DHS also initiated a reduction of Claimant's FAP benefit eligibility because of the employment-related disqualification.
8. On [REDACTED]/13, Claimant requested a hearing disputing the FIP benefit termination and FAP benefit reduction.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FIP benefit termination. It was not disputed that the basis for FIP termination was alleged noncompliance by Claimant's boyfriend 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.*

DHS contended that Claimant's boyfriend was noncompliant with PATH participation during the week of [REDACTED] 13. It was not disputed that Claimant's boyfriend had a 35 hour per week obligation to attend PATH. DHS could not state with any certainty how many hours Claimant's boyfriend was absent during the week of [REDACTED]/13. DHS contended that the amount of specific hours is irrelevant to the determination of noncompliance. The DHS contention was not persuasive.

A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. BEM 230A (1/2013), p. 18. A WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.* If the alleged noncompliance is less than 16 hours, a client could be excused without any showing of good cause. Further, a client can only present an excuse (i.e. an excused absence or good cause) if DHS can state with specificity the days and/or hours a participant was absent.

Given that Claimant gave birth to her boyfriend's child the alleged week of noncompliance makes the need for specificity even more necessary. Claimant's boyfriend has a compelling excuse for missing PATH for at least a couple of days following the birth of his child.

The DHS failure to present adequately specific evidence of noncompliance is fatal to the DHS determination of noncompliance. It is found that Claimant's boyfriend was compliant with PATH participation. Accordingly, it is found that DHS improperly imposed an employment-related disqualification and improperly terminated Claimant's FIP eligibility.

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).

Claimant also requested a hearing to dispute a FAP benefit reduction. The FAP reduction was also based on Claimant boyfriend's alleged noncompliance with PATH participation.

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.


The above finding that Claimant's boyfriend was compliant with PATH participation is equally applicable to the FAP reduction analysis. It is found that DHS improperly reduced Claimant's FAP 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 benefit eligibility and reduced Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FIP benefit eligibility, effective █/2013, subject to the finding that Claimant's boyfriend was compliant with PATH participation;
- (2) redetermine Claimant's FAP eligibility, effective █/2013, subject to the finding that Claimant's boyfriend was compliant with PATH participation;
- (3) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (4) remove any relevant employment-related disqualification from Claimant's and her boyfriend'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: 11/1/2013

Date Mailed: 11/1/2013

NOTICE OF APPEAL: 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.

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).

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:

