

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-69264  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: October 23, 2013  
County: Wayne (98)

**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 23, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) due to Claimant'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 was an ongoing FIP benefit recipient.
2. Claimant was an ongoing PATH participant.
3. Claimant had a 40 hour/week obligation to attend PATH.
4. Claimant failed to attend PATH during the weeks of [REDACTED]/13 and [REDACTED]/13.

5. On [REDACTED]/13, PATH mailed Claimant a letter advising Claimant to return to PATH on [REDACTED]/13.
6. On [REDACTED]/13, Claimant failed to return to PATH.
7. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective [REDACTED]/2013, due to noncompliance with PATH participation.
8. On [REDACTED]/13, DHS mailed Claimant a Notice of Non-Compliance scheduling Claimant for a triage appointment to be held on [REDACTED]/13.
9. On [REDACTED]/13, Claimant failed to participate in the triage.
10. On [REDACTED]/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, 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 to be effective [REDACTED]/2013. It was not disputed that the basis for the termination was 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 Claimant had a 40 hour per week obligation to attend PATH. It was not disputed that Claimant did not attend PATH for a two-week period beginning [REDACTED]/13. It was not disputed that PATH attempted to reengage Claimant for participation by sending a letter to Claimant warning her that she would be found noncompliant if she did not return on [REDACTED]/13. It was not disputed that Claimant failed to respond to the warning letter. Claimant's total three week absence is found to be a sufficient 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. BEM 233A (5/2012), p 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no childcare, 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.

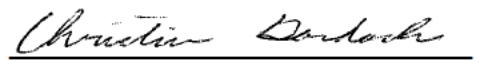
Claimant testified that she was unable to attend PATH because she needed to accompany her 13-year-old daughter on public transportation to attend a high school prep program. Claimant testified that the program ran from 8:00 a.m. through 12:00 p.m. Claimant testified that the program lasted through the end of [REDACTED]/2013. Claimant also testified that she reported the need to attend the program to PATH and that a PATH representative told Claimant that her excuse was unacceptable. Claimant did not provide verification of the excuse but her testimony was sufficiently credible.

Claimant's excuse is somewhat sympathetic. It is admirable for a parent to prioritize a child's education. Had Claimant's absences from PATH better overlapped with the dates and times of her daughter's program, good cause might have been found. Claimant could not adequately explain why she was unable to attend PATH for the afternoons when her daughter's program had ended. Claimant could not adequately explain why she did not contact PATH to reschedule her re-engagement date of [REDACTED]/13 knowing that was the last date of her daughter's school program. Claimant also could not adequately explain why she failed to attend the triage.

Based on the presented evidence, it is found that Claimant was noncompliant with PATH participation. Accordingly, it is found that DHS properly imposed an employment-related disqualification and terminated Claimant's FIP eligibility.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective [REDACTED]/2013. The actions taken by DHS are AFFIRMED.

  
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:

