

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201369760
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly terminate claimant's FIP benefits for failing to attend the PATH program?

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 FIP applicant in Wayne County.
- (2) Claimant was a mandatory PATH participant.
- (3) Claimant allegedly did not meet participation requirements.
- (4) Claimant failed to submit job search logs in a timely manner in the months of [REDACTED], and [REDACTED] 2013.
- (5) Claimant was given several opportunities to submit job search logs, including a chance to submit substitute logs to cover missed requirements.
- (6) Claimant was scheduled to attend a reengagement meeting on [REDACTED] 2013, in order to avoid a finding of non-participation.
- (7) Claimant failed to attend this meeting.
- (8) Claimant was found non-participatory by PATH officials.

- (9) On [REDACTED] 2013, claimant was sent a DHS-2444, Notice of Noncompliance, noting that claimant did not meet PATH requirements.
- (10) A triage was scheduled for [REDACTED] 2013.
- (11) On [REDACTED] 2013, a triage was held.
- (12) Claimant did not provide documentary evidence of good cause.
- (13) The Department held that claimant had no good cause for her non-participation with PATH and held that claimant was noncompliant.
- (14) This was the first incident of noncompliance.
- (15) Claimant's case was sanctioned and closed for a period of 3 months beginning [REDACTED] 2013.
- (16) On [REDACTED] 2013, claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Partnership. Accountability. Training. Hope. (PATH) Program or other employment service provider, unless 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 to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “non-compliance”. BEM 233A defines non-compliance as failing or refusing to, without good cause:

“...Appear and participate with the PATH Program or other employment service provider...” BEM 233A pg. 1.

However, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for non-participation with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance is FIP closure. For the first occurrence of non-compliance on the FIP case, the client is sanctioned for a period not exceeding 3 months. BEM 233A.

Furthermore, PATH participants cannot be terminated from the PATH program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. At these triage meetings, good cause is 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. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to PATH, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

After reviewing the facts of the case, the undersigned holds that the Department has properly shown that claimant was non-participatory. PATH case notes show that claimant did not submit job search logs in a timely manner for the months of June, July, and August 2013. Claimant was a work eligible individual responsible for participating in job-related activities. By her own admission under oath, claimant testified that she failed to turn in job logs in a timely manner. Furthermore, claimant was given a warning in

August, and a chance to reengage through a meeting scheduled for [REDACTED] 2013. Per case notes which claimant was unable to rebut, claimant did not attend the meeting in question. Therefore, the undersigned must find that claimant was not participating in job related activities.

Furthermore, the Department appears to have provided a procedurally correct triage; a triage was properly held, claimant was given a chance to provide evidence of good cause, and a determination of good cause was made using the evidence at hand.

Additionally, claimant failed to provide the Department proof of good cause, and the claimant did not make any allegations of good cause at the triage; claimant's argued instead that she had conducted the job searches in question, though claimant admitted that the searches were not turned in timely. Furthermore, claimant could not recall specifically whether she attended the reengagement meeting on [REDACTED] 2013.

Thus, as there was no proof of good cause, the Department could not have found good cause when it reviewed her case at triage.

Therefore, the Department has met its burden in proving its case. It has shown that claimant was non-participatory with PATH. It showed that claimant did not meet the standards of good cause. It showed that a triage was properly held, and that claimant was given an adequate chance to submit documentation of good cause, which claimant failed to do.

While claimant may have indeed had good cause for her failure to fully participate with PATH during the time period in question, the fact remains that claimant has failed to submit adequate proof of that fact, despite being given adequate opportunity to do so by the Department. BEM 233A states that the claimant must submit verification and documentation of good cause, and the Administrative Law Judge agrees that proof up to the current point in time has been lacking. Therefore, because claimant has failed to prove that she had good cause, and failed to submit evidence of good cause to the Department before the date of negative action, as well as failed to submit evidence that she was not non-participatory, the Administrative Law Judge holds that the Department was correct to find the claimant in noncompliance, and correct to impose the sanction prescribed.

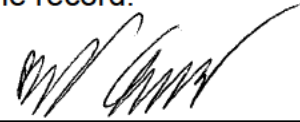
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when when sanctioning claimant's FIP case for noncompliance.

did not act properly when .

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/1/2013

Date Mailed: 11/1/2013

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

RJC/hw

cc:

