

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-68792
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: November 21, 2013
County: Wayne (35)

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, an in-person hearing was held on November 21, 2013, from Redford, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, [REDACTED], PATH Case Manager, and [REDACTED], DHS Coordinator.

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 20 hour/week obligation to attend PATH.
4. Claimant participated with PATH was as follows:

- 20 hours for the week beginning [REDACTED]
 - 11 hours for the week beginning [REDACTED]
 - 19 hours for the week beginning [REDACTED]
 - 0 hours for the week beginning [REDACTED]
 - 9 hours for the week beginning [REDACTED]
 - 10 hours for the week beginning [REDACTED]
5. On [REDACTED], PATH gave Claimant a reengagement letter, which warned Claimant of noncompliance.
 6. Claimant failed to participate with PATH again.
 7. On [REDACTED], 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 Claimant's noncompliance with PATH participation.
 8. On [REDACTED], DHS mailed Claimant a Notice of Non-Compliance scheduling Claimant for a triage appointment to be held on [REDACTED]
 9. On [REDACTED], Claimant participated in the triage and alleged good cause due to a lack of child care.
 10. DHS determined that Claimant had no good cause for her lack of PATH participation.
 11. On [REDACTED], 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 9/2013. 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 20 hour per week obligation to attend PATH. It was not disputed that Claimant failed to meet her weekly obligation in five consecutive weeks before PATH warned Claimant of becoming found noncompliant. It was also not disputed that Claimant failed to participate with PATH following the warning. Claimant's lack of participation 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 stopped attending PATH due to a lack of child care for her four year old. Claimant testified that her ongoing day care provider provided free day care but that she had to stop using the provider because the provider had bed bugs and that Claimant could not risk exposing her child to such an environment. Claimant provided this excuse to PATH on [REDACTED]. Claimant's explanation for failing to attend PATH through [REDACTED] was reasonable.

After hearing Claimant's excuse, it was not disputed that Claimant was advised to apply for child care so that DHS could pay for a different day care provider. Claimant testified that she looked for CDC providers but was told by each provider that DHS takes several weeks to issue day care payments. Claimant also testified that she was told by each provider that Claimant would be personally responsible for day care expenses until DHS issued payments. Claimant testified that she failed to apply for day care benefits from DHS because she thought it was pointless based on what she was told. Claimant explained that she thought it best to wait until her daughter could return to school in [REDACTED] when there would be no need for a day care provider.

As of [REDACTED], there were no guarantees that Claimant would ever resolve her day care circumstance. The most appropriate and certain resolution would have been for Claimant to apply for day care. If Claimant was concerned about waiting for day care payments to be issued, the concerns could not be alleviated by not applying for day care. Had Claimant applied for day care and DHS did not issue payments to a day care provider selected by Claimant, Claimant could establish good cause because Claimant's inability to attend PATH would be through no fault of her own. By not applying for day care benefits, Claimant is at fault for her lack of day care by failing to pursue a reasonable method of resolving her problem.

Claimant presented a letter (Exhibit 25) dated [REDACTED] from an MWA case manager. The letter stated that Claimant was in good standing with MWA since [REDACTED]. Claimant

contended that the letter verifies that she is capable of attending PATH. Claimant's contention is accurate, but it does not directly support good cause for Claimant's lack of participation in [REDACTED] and [REDACTED].

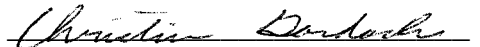
Claimant presented a letter (Exhibit 26) dated [REDACTED]. The letter indicates that Claimant's daughter was approved for Head Start. Claimant presented the letter in an attempt to verify that DHS did not have to worry about Claimant's day care beginning [REDACTED]. The letter is not compelling because it was not provided to DHS prior to the FIP termination. Further, it does not excuse Claimant from pursuing day care benefits for parts of [REDACTED] and [REDACTED].

Claimant also presented several job applications (Exhibits 1-24) from various dates. Claimant contended that the applications support her sincere interest in finding employment. Again, the letters have some relevance, but fail to address why Claimant did not pursue day care benefits. The letters do not directly impact Claimant's reported lack of participation because Claimant conceded not submitting the letters to PATH.

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]. The actions taken by DHS are **AFFIRMED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/27/2013

Date Mailed: 11/27/2013

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:

