

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201330727
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Wayne DHS (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 25, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, [REDACTED] Specialist, [REDACTED], Manager, and [REDACTED], PATH Case Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) benefits due to 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 not an ongoing PATH participant.
3. On an unspecified date, the Medical Review Team (MRT) determined that Claimant was capable of participating with PATH.
4. On 2/5/13, DHS mailed Claimant a notice informing Claimant that he was no longer deferred from PATH participation because of disability.

5. On 2/19/13, Claimant requested a hearing to dispute the MRT determination.

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, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (11/2012), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *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 (11/2012), 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.*

The present case concerns a DHS determination that Claimant was medically capable of attending PATH. Claimant contended that his hearing request disputed a termination of FIP benefits. Claimant requested a hearing on a form attached to a notice informing him of a denied PATH deferral. Claimant had no evidence of any adverse action taken by DHS prior to his hearing request. It is found that Claimant requested a hearing to dispute a determination that Claimant was medically capable of attending PATH. DHS regulations prescribe certain procedures when a client is denied deferral from PATH participation.

When a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A (1/2013), p. 16. When a client requests a hearing based on not being granted a deferral, DHS is to advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. *Id.* DHS is to be sure that the client understands the time to file a hearing is once he/she receives a notice of case action for noncompliance. *Id.*

As noted above, Claimant may not request a hearing to dispute a determination on PATH deferral. Also noted above, the time for Claimant to request a hearing is when there is a benefit termination. From Claimant's perspective, it would be perplexing that DHS would mail the notice of the denied deferral with a blank hearing request form; perplexing as it is, it does not alter DHS regulations. Based on the presented evidence, Claimant's hearing request is dismissed for failing to demonstrate an issue reviewable by administrative decision.

As it happened, following Claimant's hearing request dated 2/19/13, DHS terminated Claimant's FIP benefit eligibility due to alleged PATH noncompliance. Claimant also requested an administrative hearing to dispute the benefit termination. During the hearing, significant time and effort was put into determining whether Claimant was noncompliant with PATH participation. The evidence was supportive of finding that DHS failed to establish noncompliance. This decision will not be made official because this issue was not the subject of Claimant's hearing request dated 2/19/13.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's hearing request dated 2/19/13 failed to raise an issue addressable by administrative hearing.

Claimant's hearing request is DISMISSED.

Christian Gardocki

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

Date Signed: 4/4/2013

Date Mailed: 4/4/2013

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

CG/hw

cc:

