

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201332889
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], [REDACTED] and Lavada [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with employment and/or self-sufficiency related activities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Family Independence Program (FIP) recipient until [REDACTED].
2. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.
3. The Claimant was deferred by Michigan Works! from participation in the PATH program for two weeks on [REDACTED].
4. On [REDACTED], the Claimant was found to be noncompliant with the PATH program when she failed to reengage her activities following her temporary deferral.

5. The Department conducted a triage meeting on [REDACTED]
6. On [REDACTED] the Department notified the Claimant that it would sanction her FIP benefits as of [REDACTED]
7. The Department received the Claimant's request for a hearing on [REDACTED], protesting the sanctioning of her FIP benefits.

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. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RTM), and the Bridges Reference Manual (BRM).

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Human Services Bridges Eligibility Manual (BEM) 229 (January 1, 2013), p 1.

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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PATH case managers use the One-Stop Management Information System (OSMIS) to record the clients' assigned activities and participation. Department of Human Services Bridges Eligibility Manual (BEM) 230A (January 1, 2013), p 1.

WEIs not referred to PATH will participate in other activities to overcome barriers so they may eventually be referred to PATH or other employment service provider. DHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). BEM 230A, p 1.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p 1.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
- Appear and participate with PATH 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.
- 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.

- Department of Human Services Bridges Eligibility Manual (BEM) 233A (January 1, 2013), pp 2-3.

The Department will follow the procedures outlined below for processing the FIP closure:

- On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment And/Or Self-Sufficiency Related Noncompliance, which is sent to the client. The following information will be populated on the DHS-2444:
 - The name of the noncompliant individual
 - The date of the initial noncompliance. (For individuals being served by PATH, this is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage activity in OSMIS.)
 - All the dates, if addressing more than one incident of noncompliance.
 - The reason the client was determined to be noncompliant.
 - The penalty that will be imposed.
 - The scheduled triage appointment, to be held within the negative action period.
- Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. Document the good cause determination on the Noncooperation Detail Screen within 24 hours of determination. BEM 233A, pp 8-9.

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab. If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral. BEM 233A, pp 3-4.

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. A claim of good cause must be verified and documented for member adds and recipients. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A.

Good cause should be 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

Good cause includes the following:

Illness or Injury: The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. BEM 233A.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed; see Benefit Delay for Refusing Employment in this item. BEM 233A.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction. BEM 233A.

In this case, the Claimant was an ongoing Family Independence Program (FIP) recipient until [REDACTED] and the Department had referred her to the PATH program as a condition of receiving FIP benefits. On [REDACTED] the Claimant was deferred from PATH by Michigan Works! for two weeks to care for a group member. The Claimant was noncompliant with the PATH program when she failed to reengage with the PATH program following her temporary deferral. The Department

conducted a triage meeting on [REDACTED] where the Claimant was given the opportunity to establish good cause for non-compliance with the PATH program. The Claimant participated in the triage meeting by telephone, but the Department did not find good cause. On [REDACTED] the Department notified the Claimant that it would sanction her FIP benefits as of [REDACTED].

The Claimant argued that she had good cause for her failure to reengage with the PATH program. The Claimant testified that she was unable to complete her PATH assignment because she was required to care for an incapacitated member of her household. The Department had previously deferred the Claimant's PATH participation so that the Claimant could care for this same person.

The Department's representative testified that policy allows the Department to find good cause where a client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. The Department's representative testified that good cause cannot be found under this section of policy where the Claimant is not married.

This Administrative Law Judge finds the Department's interpretation of policy to be overly narrow.

Department policy (BEM 230A) allows a client to be deferred from participation in the PATH program for persons with a mental or physical illness, limitation, or incapacity. The wording of this policy does not create a distinction between married and unmarried persons. Furthermore, the Department did defer the Claimant from participation in the PATH program so that the Claimant, who is not married, could care for an incapacitated person.

The language of BEM 233A indicates that good cause may be granted where a spouse or child's illness or injury requires in-home care by the client. The Department's interpretation of this section of policy would exclude unmarried individuals from a finding of good cause when a finding that a deferral is warranted is allowable by policy.

The policy's language states that good cause can be found where care is required for a spouse or child. Based on the Department's interpretation of policy, an unmarried parent of a client's children living in the Claimant's home would be excluded, while good cause could be granted where a client cares for any child, related or not. Extending the Department's interpretation of this section of policy further, a child's illness or injury that requires in-home care by the client might include any child, related or not, that requires in-home care, whether that care is in the client's home or not since the policy does not specify that the care be provided in the client's home.

This Administrative Law Judge finds that BEM 233A does not prevent the Department from making a finding of good cause where a non-married client is required to provide in-home care for a temporarily incapacitated person.

The Department's representative testified that good cause would have been found in this case if it were allowed by BEM 233A. This Administrative Law Judge finds that the

Claimant established that she had good cause for her noncompliance with the PATH program.

The Department's representative cited page 15 of BEM 230A, which excuses participation in the PATH program for the care of a spouse or child with disabilities. This Administrative Law Judge finds this section of policy defines individuals that are not work eligible individuals (WEI) and that this section of policy is not relevant here. In this case, the Claimant is not asserting that she is not a work eligible individual (WE), or that she cares for a disabled person, but rather that she had good cause for her noncompliance.

Based on the evidence and testimony available during the hearing, this Administrative law Judge finds that the Claimant established that she had good cause for her noncompliance with the PATH program. The Department has failed to establish that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with self-sufficiency related activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the negative action from the Claimant's benefits case file.
2. Initiate a determination of the Claimant's eligibility for Family Independence Program (FIP) benefits as of [REDACTED].
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 04/12/2013

Date Mailed: 04/12/2013

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

KS/kl

cc:

