

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201336323
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Wayne DHS (15)

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, an in-person hearing was held on May 29, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first 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.

The second issue is whether DHS properly reduced Claimant's eligibility for Food Assistance Program (FAP) due to Claimant's noncompliance with PATH.

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 deferred from PATH participation pending the evaluation of her medical documents for deferral based on disability.
3. DHS determined that Claimant was capable of attending PATH.

4. On 2/11/13, DHS mailed Claimant a PATH Appointment Notice informing Claimant of the obligation to attend PATH orientation on 2/19/13.
5. Claimant failed to attend the PATH orientation.
6. On 3/2/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage meeting to be held on 3/8/13.
7. On 3/2/13, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility and reduction of Claimant's FAP eligibility, both actions effective 4/2013, due to noncompliance with PATH participation.
8. The Notice of Case Action from 3/2/13 also informed Claimant that this was her first sanction and a three month employment-related disqualification would be imposed.
9. Claimant did not attend the triage.
10. DHS determined that Claimant had no good cause for the alleged employment-related noncompliance.
11. On 3/13/13, Claimant requested a hearing disputing the FIP benefit termination and FAP benefit reduction.

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).

Claimant requested a hearing to dispute a FIP benefit termination and FAP benefit reduction. It was not disputed that the basis for the termination and reduction was due to alleged noncompliance in PATH participation by Claimant.

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 DHS informed Claimant of an obligation to attend PATH on 2/19/13. It was not disputed that Claimant failed to attend PATH at her scheduled orientation date, or any dates thereafter. Claimant's failure to attend is a basis for noncompliance.

PATH participants will not be terminated from PATH 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, the penalty duration and an appointment for a triage meeting. *Id.*, pp. 8-9. The 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.*, p. 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. *Id*, p 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, 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.

It was not disputed that Claimant was deferred from PATH participation while DHS evaluated Claimant for a deferral based on disability. Claimant testified that she thought that she turned in the required medical documents to be deferred from PATH participation. In fact, Claimant was deferred, but only while DHS evaluated her documents for deferral based on disability.

Once a client claims a disability he/she must provide DHS with verification of the disability when requested. *Id*. The verification must indicate that the disability will last longer than 90 calendar days. *Id*. If the verification is not returned, a disability is not established. *Id*. The client will be required to fully participate in the work participation program as a mandatory participant. *Id*. For verified disabilities over 90 days, the specialist must obtain an MRT decision by completing the medical packet. *Id*. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. *Id*.

DHS presented testimony that Claimant's medical documents were evaluated and that it was determined that Claimant was not so disabled as to be deferred from PATH participation. Claimant presented medical documents during the hearing which tended to support the DHS decision. Claimant's documents verified a global assessment functioning level of 60. A GAF between 51 and 60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning- with 60 being on the end of more mild symptoms. Moderate and mild symptoms also tended to be established by a form which noted that Claimant had no marked limitation in 16 of 20 listed work abilities and only four (out of 20) where she was moderately limited. It is found that Claimant's alleged disability did not amount to good cause for her failure to attend PATH. Accordingly, the FIP benefit termination based on an employment-disqualification was proper.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a FAP benefit reduction. It was not disputed that DHS reduced Claimant's FAP benefit eligibility based on the employment-related disqualification imposed due to Claimant's failure to attend PATH.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a penalty on the FIP program;
- the client is not deferred from FAP work requirements; and
- the client did not have good cause for the noncompliance. BEM 233B at 2.

The only requirement in dispute was whether Claimant was deferred from FAP work requirements. Clients meeting one of the criteria below are temporarily deferred from FAP employment-related activities:

- Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.
- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.
- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.
- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion.
- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B (12/2011), pp. 3-5.

It was not disputed that Claimant was the sole caretaker to a five year old child. As the sole caretaker to a child under six years old, Claimant should have been deferred from FAP work activities. Because Claimant should not have been disqualified, for purposes of FAP benefit eligibility, the reduction of FAP benefits, based on an employment-related disqualification, was improper.

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 4/2013, due to Claimant's noncompliance with employment-related activities. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly imposed an employment-related disqualification for purposes of FAP benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 4/2013, subject to the finding that DHS improperly failed to defer Claimant from FAP work requirements; and
- (2) supplement Claimant for any FAP benefits improperly not issued.

The actions taken by DHS are REVERSED.



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

Date Signed: 6/7/2013

Date Mailed: 6/7/2013

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:

