

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201337146  
Issue No: 1038  
Case No: [REDACTED]  
Hearing Date: June 18, 2013  
County: Ingham

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on March 21, 2013. After due notice, a telephone hearing was held on June 18, 2013. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager).

**ISSUE**

Whether the Department properly determined Claimant's eligibility for Family Independence Program (FIP) benefits based on noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

**FINDINGS OF FACT**

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

1. Claimant was a FIP recipient.
2. On February 26, 2013, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) because she allegedly failed to appear for a mandatory PATH appointment during the application eligibility period. Claimant's Triage appointment was scheduled for March 6, 2013 at 2:30 p.m.
3. On March 6, 2013, Claimant did not attend Triage. The Department found Claimant did not show good cause for her noncompliance.

4. The Department mailed Claimant a Notice of Case Action (DHS-1605) on February 26, 2013, which closed Claimant's FIP benefits for a lifetime effective April 1, 2013.
5. Claimant submitted a hearing request on March 21, 2013 protesting the closure of her FIP benefits.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Family Independence Program (FIP), also referred to as "cash assistance," 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 (RFT), and the Bridges Reference Manual (BRM).

Effective January 1, 2013, as a condition of FIP eligibility, FIP applicants must attend the Partnership Accountability Training Hope (PATH) program (formerly the JET program) and maintain 21 days' attendance. BEM 229. The program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. BEM 229. In order for their FIP application to be approved, all FIP applicants must complete all of the following: (1) begin the application eligibility period (AEP) by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; (2) complete PATH AEP requirements; (3) continue to participate in PATH after completion of the 21 day AEP. BEM 229. The Department will deny the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229.

A Work Eligible Individual (WEI) and non-WEIs<sup>1</sup>, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure for a minimum of three months for the first episode of

---

<sup>1</sup> Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A.

Bridges will automatically issue a DHS-4785, PATH Program Appointment Notice, from Bridges at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant.

When assigned, clients must engage in and comply with all PATH assignments while the FIP application is pending. PATH engagement is a condition of FIP eligibility. **Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits.** Bridges automatically denies FIP benefits for noncompliance while the application is pending. Bridges will not penalize Food Assistance when a client fails to attend PATH as a condition of eligibility when the noncompliant individual is not active FIP on the date of the noncompliance. Clients must be active FIP and FAP on the date of FIP noncompliance to apply a FIP penalty to the FAP case. BEM 229.

An applicant, recipient or a member add is noncompliant if he or she, without good cause, fails or refuses to do any of the following: (1) appear and participate with the JET Program or other employment service provider; (2) complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process; (3) develop a FSSP or a Personal Responsibility Plan and Family Contract (PRPFC); (4) comply with activities assigned to on the FSSP; (5) provide legitimate documentation of work participation; (6) **appear for a scheduled appointment or meeting related to assigned activities**; (7) participate in employment and/or self-sufficiency-related activities; (8) accept a job referral; (9) complete a job application; (10) appear for a job interview.<sup>2</sup> BEM 233A.

PATH participants will not be terminated from a PATH program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines. BEM 233A. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. BEM 233A. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. BEM 233A. Clients must comply with triage requirement within the negative action period. BEM 233A.

The department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

---

<sup>2</sup> The Department will not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. BEM 233A.

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.

The penalty for noncompliance without good cause is FIP closure. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and **lifetime closure for the third episode of noncompliance**. BEM 233A.

The sanction period begins with the first pay period of a month. BEM 233A. Penalties are automatically calculated by the entry of noncompliance without good cause in the Department's computer system known as Bridges. This applies to active FIP cases, including those with a member add who is a WEI work participation program participant. BEM 233A.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count. BEM 233A. The sanction period begins with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member add who is a WEI work participation program participant. BEM 233A. Bridges applies noncooperation penalties at an individual level. BEM 233A. Two parent families will have two individual penalty counters. The FIP EDG penalty is applied based on the individual with the highest penalty counter. BEM 233A. In a two parent family, one parent has to reach his/her individual penalty count of three for the case to close for a lifetime sanction. BEM 233A.

Here, the Department contends that Claimant's deferral ended on January 10, 2013 which prompted Bridges to generate a PATH Appointment Notice. When Claimant missed the appointment, the Department scheduled a Triage. After Claimant missed the Triage appointment, the Department found good cause which led to the closure of FIP. Claimant, on the other hand, contends that she had a problem with her mailbox at her apartment complex and was unable to retrieve her mail for 1 (one) month. Apparently, Claimant's mailbox had been frozen shut and only the mail carrier had the ability to open her mailbox. During this time period, Claimant argues that she did not receive her mail. This invokes the mailbox rule.

Michigan adopts the mailbox rule which is a presumption under the common-law that letters have been received after being placed in the mail in the due course of business. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In other words, the proper mailing and addressing of a letter creates a presumption of receipt but that presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Under the mailbox rule, evidence of business custom or usage is allowed to establish the fact of mailing without further testimony by an employee of compliance with the custom. *Good, supra*. Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed. *Good supra* at 275. "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary. See *id*.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Claimant's testimony is not credible. This Administrative Law Judge does not believe that Claimant waited for 1 (one) month to obtain her mail and that she did not make arrangements with the post office to collect her mail during the time period in question. Moreover, there is no evidence in the record that this problem was reported to the U.S. Postal Service or that no other arrangements could be made to obtain her mail from January 2013 through March 2013. The Department's Notice of Noncompliance scheduled the Triage for March 6, 2013. Claimant also has not sufficiently rebutted the presumption of receipt under the mailbox rule. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that Claimant has not shown good cause for her noncompliance.

Accordingly, this Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for failing to attend her mandatory PATH appointment within the AEP. As a result, the Department properly closed Claimant's FIP case for non-compliance. This is Claimant's third non-compliance with the PATH program.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly closed Claimant's FIP case for noncompliance with WF/JET requirements and the lifetime sanction is **AFFIRMED**.

IT IS SO ORDERED.

/s/\_\_\_\_\_

C. Adam Purnell  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: June 20, 2013

Date Mailed: June 20, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

201337146/CAP

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

CAP/aca

cc:

