

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-38733
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Clinton

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 Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Nancy [REDACTED]
[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. On [REDACTED], the Department sent the Claimant a Medical Appointment Confirmation Notice (DHS-800) and scheduled him for an appointment with a physician for [REDACTED], to determine whether he is capable of participating in the PATH program.

4. The Claimant failed to attend the [REDACTED], appointment.
5. On [REDACTED] the Medical Review Team (MRT) determined that the Claimant is not disabled and is a work eligible individual that is capable of participating in the PATH program.
6. On [REDACTED], Michigan Works!, on behalf of the Department, scheduled an appointment for [REDACTED], and requested that the Claimant either participate in the PATH program on that date, or provide documentation showing that he is not capable of participating.
7. The Claimant was noncompliant with the PATH program when he failed to attend or reschedule the [REDACTED], appointment, and failed to provide additional medical documentation excusing his absence.
8. The Department conducted a triage meeting on [REDACTED].
9. On [REDACTED], the Department notified the Claimant that it would sanction his FIP benefits as of [REDACTED].
10. The Department received the Claimant's request for a hearing on [REDACTED], protesting the sanctioning of his 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 (RFT), 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 PATH. 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.

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 him to the PATH program as a condition of receiving FIP benefits.

On [REDACTED], the Department sent the Claimant a Medical Appointment Confirmation Notice (DHS-800) and scheduled him for an appointment with a physician for [REDACTED], to determine whether he is capable of participating in the PATH program. The Claimant failed to attend the [REDACTED], appointment. Based on the documentation provided by the Claimant, the Medical Review Team determined on [REDACTED], that the Claimant is not disabled and he is a work eligible individual that is capable of participating in the PATH program.

The Claimant argued that he was not given the opportunity to attend the [REDACTED], appointment, and therefore did not have the opportunity to establish that he is not capable of participating in the PATH program. The Claimant testified that he did not receive notice of the appointment.

This Administrative Law Judge rejects this argument for two reasons.

First, the proper mailing and addressing of a letter creates a presumption of receipt. 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). In this case, the Claimant failed to rebut the presumption of receipt because Department records establish that it sent adequate and timely notice of the October 18, 2012, appointment to the Claimant's proper mailing address.

Second, Department of Human Services Bridges Assistance Manual (BAM) 600 (February 1, 2013), p 4, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

In this case, the Claimant's requested for a hearing was received by the Department on [REDACTED]. This request for a hearing is not a timely hearing request for the purposes of protesting the [REDACTED], determination of the Medical Review Team (MRT) that the Claimant is capable of participating in the PATH program.

Therefore, even if there was a valid argument that the Claimant could make against the [REDACTED] determination of the MRT, this issue does not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS) for the reasons stated above.

The Claimant was noncompliant with the PATH program when he failed to attend or reschedule his [REDACTED] appointment, and failed to provide additional documentation excusing his absence. The Department conducted a triage meeting on [REDACTED], where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. The Claimant failed to attend the triage meeting. Based on the information available in the Claimant's case file, the Department

determined that the Claimant did not have good cause for his noncompliance on [REDACTED]. [REDACTED], the Department notified the Claimant that it would sanction his FIP benefits as of [REDACTED].

The Claimant argued that he had good cause for his failure to attend the [REDACTED], appointment with the PATH program. The Claimant testified that he suffers from vertigo. The Claimant testified that physical and mental impairments periodically cause him to become incapacitated and are a barrier to his participation in the PATH program that are beyond his control.

The Claimant did not dispute that he failed to attend the [REDACTED], triage meeting. The Claimant failed to present additional medical documentation at the administrative hearing supporting his argument for good cause. This Administrative Law Judge finds that the Claimant failed to present sufficient evidence to establish that he had good cause for his noncompliance with the PATH program on [REDACTED].

The Department's determination that the Claimant did not have good cause for his noncompliance with the PATH program is reasonable and is supported by the evidence available during the hearing. The Department has established 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 acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.

/s/

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

Date Signed: 05/07/2013

Date Mailed: 05/07/2013

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:

