

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

IN THE MATTER OF:



Reg. No.: 201338907
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: Macomb DHS (20)

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 July 24, 2013, from Warren, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The 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.

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 2/4/13, DHS mailed Claimant a PATH Appointment Notice (Exhibit 7) informing Claimant of an obligation to attend PATH on 2/11/13.
4. Claimant failed to attend the PATH orientation.
5. On 2/25/13, DHS initiated termination of Claimant's FIP benefit eligibility, effective 4/2013, due to Claimant's alleged noncompliance with PATH participation (see Exhibits 10-11).

6. On 2/25/13, DHS imposed an employment-related disqualification against Claimant, and mailed Claimant a Notice of Noncompliance (Exhibit 9) scheduling Claimant for a triage to be held on 3/7/13.
7. On 3/7/13, Claimant attended a triage and claimed that she was too ill to attend the PATH orientation.
8. During the triage, DHS determined that Claimant lacked good cause for missing the PATH orientation and verbally advised Claimant that she had until the end of the day to provide documentation for her absence in order for good cause to be reconsidered.
9. On 3/15/13, Claimant presented a Medical Needs form (Exhibit 3) to DHS.
10. On 4/1/13, Claimant requested a hearing to dispute the FIP benefit termination.

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. It was not disputed that the basis for the termination was alleged noncompliance by Claimant in her PATH attendance obligation.

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 Claimant informed DHS that she was able to attend PATH. It was not disputed that DHS informed Claimant of an obligation to attend a PATH orientation scheduled for 2/11/13. It was not disputed that Claimant did not attend the orientation. Claimant's failure to attend PATH is deemed to be a basis for noncompliance.

WEIs will not be terminated from a WPP program 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 and the penalty duration. *Id.*, p. 8. In addition, a 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.*

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.

Claimant testified that she was unable to attend PATH on 2/11/13 because of general pain. Claimant's testimony was more suggestive of a general claim of disability rather than a specific reason for not attending PATH on 2/11/13.

It was not disputed that Claimant informed DHS that she would rather attend PATH than having forms completed for a possible deferral based on disability. Once Claimant reported this information, DHS had no obligation to consider PATH deferral based on disability. Thus, a claim of long-term disability is not a persuasive argument for Claimant.

As noted above, good cause must be verified. It was not disputed that Claimant did not provide DHS with documented good cause until 3/15/13, one week after a triage and after the negative action date associated with the Notice of Case Action, date 2/25/13. It could be contended that Claimant should have known about the obligation to document her absence from PATH beginning on 2/11/13, the date of missed PATH orientation. This contention requires an expectation that clients are as familiar with DHS policy as DHS specialists. This is not a realistic expectation.

Claimant should have been aware of the need to verify good cause no earlier than 2/27/13, a likely receipt date of the Notice of Noncompliance, which states that it is the client's "responsibility to verify". Based on the present circumstances, it is not unreasonable that Claimant's medical documentation was submitted to DHS on 3/15/13, within a week of the triage. Based on Claimant's triage statements, DHS could have reinitiated a negative action to give Claimant additional time to submit good cause. It is found that Claimant timely submitted proof of good cause.

Claimant's medical document was signed by her physician on 3/13/13. It noted substantial problems for Claimant including a lifetime inability to perform any job and a need for assistance with several daily activities (e.g. bathing and dressing). The physician completed form sufficiently established good cause for Claimant's PATH orientation absence. Accordingly, the termination of Claimant's FIP benefit eligibility was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefit eligibility, effective 4/2013, subject to the finding that Claimant established good cause for a failure to attend PATH;
- (2) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (3) removal of any relevant disqualification from Claimant's or Claimant's spouse's disqualification history.

The actions taken by DHS are REVERSED.



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

Date Signed: 8/2/2013

Date Mailed: 8/2/2013

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 affect the substantial rights of the claimant,
 - 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:

