

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 2013-42368  
Issue No: 1012  
Case No: [REDACTED]  
Hearing Date: June 6, 2013  
Saginaw County DHS

**ADMINISTRATIVE LAW JUDGE:** Landis Y. Lain

**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. After due notice, a telephone hearing was held on June 6, 2013. Claimant personally appeared and testified. The department was represented by Triage Specialist [REDACTED] [REDACTED] PATH Coordinator [REDACTED] [REDACTED] PATH Case Manager [REDACTED] [REDACTED] and Supervisor [REDACTED] [REDACTED]. The record for this case was left open until June 30, 2013 to allow for submission of additional information by claimant. New information was received June 17, 2013 and the record was closed at that time.

**ISSUE**

Did the Department of Human Service (the department) properly propose to cancel claimant's Family Independence Agency (FIP) benefits based upon its determination that claimant did not participate in mandatory Work First (PATH) 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) Claimant was a FIP benefit recipient.
- (2) Claimant was assigned to participate in Mandatory Work First (PATH) program activities.
- (3) On March 26, 2013 PATH removed claimant from the program for missed appointments. (Claimant missed appointments on March 14, 2013, March 15, 2013, March 22, 2013 and March 26, 2013)
- (4) On April 2, 2013, the department sent claimant a Notice of Non-compliance (DHS 2444) with a triage scheduled for April 9, 2013.

- (5) On April 9, 2013, claimant failed to attend the triage meeting.
- (6) The department caseworker found that claimant had not established good cause for her failure to participate in PATH activities and made a no good cause determination in claimant's case.
- (7) On April 19, 2013, claimant filed a request for a hearing to contest the negative action.

### **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 or her claim for assistance has been 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 of that decision. BAM 600.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Department of Human Services (DHS) requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in those activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause. Non-compliance may be an indicator of possible disabilities and the department is considered further exploration of any barriers. BEM, Item 233A. As a compliance of eligibility clients must work or engage in employment and/or self-sufficiency related activities. Non-compliance of applicants, recipients and member adds, means doing any of the following without good cause:

- Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification and clients can reapply at any time.
- Failing to or refusing to appear or participate with the Jobs Education and Training program, or other employment service providers

- Complete a family automated screening tool (FAST) as assigned in the first step in the FSSP process.
- Develop a family self sufficiency plan
- Comply with activities assigned in the FSSP.
- Provide legitimate documentation of work participation
- Appear for a scheduled appointment or meeting related to assigned activities
- Failure to participate in employment or a self sufficiency related activities
- Accept a job referral
- Complete a job application
- Appear for a job interview
- Stating orally or in writing to a definite intent not to comply with the program requirements
- Threatening, physically abusing, or otherwise behaving destructively to anyone conducting or participating in an employment and/or self sufficiency related activity
- Refusing employment support services as a refusal prevents participation in employment and/or self sufficiency related activities (BEM, Item 233A, p.2)

In the instant case, the facts are not at issue. Claimant alleged that she had a health problem which prevented her participation in Work First. Claimant did not provide any proof that she had a doctor's excuse from Work First activities. Claimant also provided information that she went to emergency room on one of the dates that she was scheduled for an appointment with DHS. However, evidence on the record indicates that the appointment was rescheduled, and claimant still did not attend the appointment. This administrative law judge finds that the evidence contained in the file does not support claimant's allegation that she thought her doctor had excused her from Work First.

Good cause is a valid reason for non-compliance with employment and/or self sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. A claimant with good cause must be verified for member adds and recipients. Good cause includes the following:

- The person is working at least 40 hours a week on average and earning at least state minimum wage.
- if the claimant is physically or mentally unfit for the job or activity, or
- if the claimant has a debilitating illness or injury, or
- an immediate family's illness or injury requiring in-home care by the claimant, or
- the department or employer has failed to make reasonable accommodations for the claimant's disability, while the claimant has no child care.
- If the claimant requested transportation services from DHS, the Michigan Works or other employment services provider prior to case closure and reasonably priced transportation was not available to the claimant.
- The employment involves illegal activities, or
- The claimant experiences discrimination.
- There is some unplanned event or factor such as:
  - domestic violence
  - health or safety risks
  - homelessness
  - jail hospitalization or
  - religion
- or the claimant quits to assume the employment comparable on salary and hours
- there is a total commuting time which exceeds 2 or 3 hours per day, including time to and from child care facilities. (BEM, Item 233A, pp. 4-5)

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.

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, Item 233A, page 6.

The penalty counter also begins April 1, 2007, regardless of the previous number of non-compliance penalties. Begin a sanction period with the first pay period of the month. Penalties are automatically calculated by the entry of non-compliance without good cause in BRIDGES. This applies to active FIP cases including those with a member add who is a WEI JET participant. BEM, Item 233A, p. 6. JET Participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. A triage meeting is to be locally coordinated to notify the MWA case manager of triage meetings including scheduling guidelines. Claimant's can either attend the meeting or participate in a conference call, if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Claimants must comply with triage requirements within the negative action period. BEM, Item 233A, p. 7. The department is to determine good cause based on the best available information during the triage and prior to the negative action date. Good cause may be verified by information already in the file with DHS or MWA. Good cause must be considered even if the claimant does not attend with particular attention to possible disabilities, including disabilities that have not been diagnosed or identified by the claimant an unmet needs or accommodation. BEM, Item 233A, p. 7. The department is to follow the following procedure for processing the FIP closure:

- Send a DHS-2444 notice of employment and/or self sufficiency related non-compliance within 3 days after learning of the non-compliance.
- Included in the DHS- 2444 is the date of non-compliance, the reason the client was determined to be non-compliant, the penalty that would be imposed, and schedule a triage to be held within the negative action period. BEM, Item 233A, pp. 7-8.

The department is to determine good cause during triage and prior to the negative action effective date. Good cause must be verified and can be based on information already in the file with the DHS or the JET program. The department is to document the

good cause determination on the sanction detail screen. If the client does not provide good cause for reason for non-compliance determining good cause based on the best information available. A triage (with claimant and the caseworker) was scheduled with claimant. Claimant did not attend the triage meeting. She did not present records which disqualified her from participating in work first activities. She did not provide good cause for failure to attend Work First (PATH) activities.

This Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that claimant was non-compliant with Work First activities. Claimant had two prior non-compliance episodes which mean that this is the third non-compliance episode.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Family Independence Program benefits under the circumstances. This Administrative Law Judge finds that claimant did not provide good cause for the failure. The department has established by preponderance of the evidence that this is the third episode of non-compliance which results in a lifetime sanction from Family Independence Program eligibility.

Accordingly, the department's decision is **AFFIRMED**.

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

\_\_\_\_\_  
Y. Lain  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: June 18, 2013

Date Mailed: June 19, 2013

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

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

LYL/las

cc:

