

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201342542 /201340106
Issue No.: 1032, 3029
Case No.: [REDACTED]
Hearing Date: May 20, 2013
County: Oakland County (#04)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Monday, May 20, 2013 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and Hearing Representative [REDACTED]). Participants on behalf of Department of Human Services (Department) included [REDACTED] (PATH Case Manager) and [REDACTED] (PATH Case Manager).

ISSUE

Whether the Department properly terminated the Claimant's cash assistance (FIP) benefits and reduced the Food Assistance Program (FAP) benefits for failure to participate in employment related activities?

FINDINGS OF FACT

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

1. The Claimant is an ongoing FIP and FAP recipient, with a group size of three, who is a mandatory participant in Work First/ Partnership Accountability Training Hope (PATH) program.

2. On March 21, 2013, the PATH program held a re-engagement meeting with the Claimant and provided her with a re-engagement letter. Claimant verbally agreed to make-up missing hours of job search.
3. On March 25, 2013, the PATH program worker and Claimant had email discussion about the Claimant physically submitting job search contact logs in addition to providing online confirmations of job searches. (Exhibit 7)
4. On March 28, 2013, the Department sent Notice of Non-compliance to Claimant scheduling her to attend triage on April 5, 2013 to discuss non-compliance. (Exhibit 3)
5. On March 28, 2013, the Department sent Claimant Notice of Case Action that her FIP benefits would terminate effective May 1, 2013 and FAP benefits decreased for failure to participate in employment related activities. (Exhibit 1)
6. On April 5, 2013, the Claimant attended triage and provided confirmations of submitting on-line applications but forgot to bring the completed job log sheets. Her request to run home and get the folder was denied.
7. The Department determined that Claimant did not have good cause for non-compliance with work activity.
8. The Department imposed a three month sanction for a first occurrence of non-compliance with employment related activities.
9. On April 5, 2013, the Department received the Claimant's written hearing request disputing the action.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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). The

Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Department requires recipients to participate in the PATH program or other employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. All Work Eligible Individuals (“WEI”), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, p. 6. 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. BEM 233A, p. 3.

PATH participants will not be terminated from a PATH program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

In this case, Claimant was required to participate in the PATH program by conducting job searches. She was given permission by the PATH case manager to conduct job searches from home and to provide confirmation of the on-line searches via email. Claimant emailed the PATH worker the on-line job application confirmations but did not submit job log sheets to the office. As a result the Claimant was not receiving full credit for meeting the job search hours requirement. A re-engagement meeting was held on March 21, 2013 where Claimant was told by the PATH worker that she also needed to submit job log sheets to the office. Claimant verbally agreed to make up the missing job search hours and to submit job log sheets. There was no specific date given for when Claimant was to submit the additional documentation. After the meeting, Claimant continued to send the PATH worker confirmations of her on-line job searches via email. On March 25, 2013, there was an email discussion clarifying that Claimant should no longer send the on-line application confirmations by email to the PATH worker but needed to submit job log sheets to the office. On March 28, 2013, the PATH worker put the Claimant into non-compliance because she had not submitted job log sheets.

Claimant testified that she believed she had two weeks until at least April 4, 2013 to submit the job log sheets along with the make-up job search hours.

On April 5, 2013, the triage was held late due to Claimant having a job interview for which she provided evidence of having attended. (Exhibit 5). Claimant forgot to bring the folder that contained her completed job log sheets to triage and her request to run home to get the folder was denied by the PATH worker. The PATH worker testified that although she received the on-line application confirmations from Claimant showing she was conducting job searches, she still needed the completed job log sheets. She further acknowledged that no specific date was given to Claimant to return the requested job log sheets. Evidence shows the Claimant was clearly conducting on-line job searches and interviewing for jobs. However, there was a misunderstanding between the Claimant and the PATH worker about when the job log sheets were to be turned in after the re-engagement meeting. In light of the foregoing, the Claimant established good cause for not submitting the job log sheets prior to being placed in triage for non-compliance on March 28, 2013. Claimant submitted the completed job log sheets at hearing, as evidence. (Exhibit 8)

Accordingly, the Department actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department's closure of the FIP benefits and reduction in FAP benefits as of May 1, 2013 based on the failure to participate in employment related activity is not upheld.

Accordingly, the Department's FIP and FAP determinations are hereby, REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Claimant's FIP and FAP benefit amounts effective prior to the date of case action in accordance with department policy.
2. The Department shall issue a supplement for lost FIP and FAP benefits, if any, that the Claimant was entitled to receive if otherwise eligible and qualified.

3. The Department shall send the Claimant back to the PATH program.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/28/2013

Date Mailed: 5/28/2013

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

MH/hw

cc:

