

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

IN THE MATTER OF:



Reg. No.: 201343749
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 28, 2013
County: Wayne DHS (31)

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, a telephone hearing was held on May 28, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of 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 child's father'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 part of a household that included her child's father.
3. Claimant's child's father was a PATH participant.
4. Claimant's child's father ceased participation with PATH in 1/2013.

5. On 4/18/13, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 5/2013, due to noncompliance with PATH participation.
6. On 4/18/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant's child's father for a triage meeting to be held on 4/24/13.
7. Claimant's child's father claimed that he had good cause for not attending PATH based on a disability.
8. DHS determined that Claimant had no good cause for the alleged employment-related noncompliance.
9. On 4/24/13, Claimant requested a hearing disputing 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 due to alleged noncompliance in PATH participation by Claimant's child's father.

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.*

DHS alleged that Claimant's child's father failed to participate with PATH from 10/29/13-4/23/13. Claimant and her child's father responded that Claimant only failed to participate with PATH since sometime in 1/2013. Accepting Claimant and her child's father at their word would mean that it was not disputed that Claimant's child's father was absent from PATH no later than 2/1/13. A failure to participate with PATH from 2/1/13 to 4/23/13 is a sufficient to establish a basis for noncompliance.

PATH participants will not be terminated from PATH 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, the penalty duration and an appointment for a triage meeting. *Id.*, pp. 8-9. The 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.*, p. 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. *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's primary argument was that there was a period when her child's father moved out of her home and he was removed from her case. Claimant contended that when this occurred, DHS had the obligation to formally resend her child's father to PATH. Claimant credibly testified that her child's father left her home for a short period . As proof of the removal of her child's father from her case, Claimant presented an Assistance Application which her child's father allegedly used to reapply for benefits for himself. Upon seeing the application, the testifying specialist was reasonably puzzled how Claimant would have possession of an original application if it was submitted to DHS. As it turned out, Claimant conceded that the application was probably never submitted to DHS because she did not want her child's father to lose his access to medical benefits. If Claimant's child's father was never removed from Claimant's case, DHS would have no reason to resend him to PATH; instead, DHS should have reasonably expected that Claimant's child's father continue PATH attendance.

It was also alleged that Claimant's child's father was a disabled individual and should have been deferred from PATH attendance. According to Claimant, her child's father was illiterate and had various psychological and physical restrictions. It was also alleged that he received Social Security Administration benefits in 2003 for being a disabled individual, prior to serving a prison sentence. Receipt of SSA benefits from 10 years ago is not proof of ongoing disability; neither is it proof of good cause for not attending PATH. It is possible that DHS should evaluate her child's father for a possible deferral from PATH based on disability.

Once a client claims a disability he/she must provide DHS with verification of the disability when requested. *Id*. The verification must indicate that the disability will last longer than 90 calendar days. *Id*. If the verification is not returned, a disability is not established. *Id*. The client will be required to fully participate in the work participation program as a mandatory participant. *Id*. For verified disabilities over 90 days, the specialist must obtain an MRT decision by completing the medical packet. *Id*. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. *Id*.

It is known that Claimant's child's father attended a triage and claimed to be disabled. Evidence supporting the claim was not presented. It was also not established that a long-term disability was claimed prior to the triage. Claimant's last application was completed on 1/26/10. DHS verified that the application did not list Claimant's child's father as incapable of working full-time due to an impairment. Claimant claimed that she receives Supplemental Security Income (SSI) benefits for having a psychological disability which may have contributed to her failure to list her child's father as disabled. Mere receipt of SSI benefits is not particularly persuasive evidence to justify misinformation on an application.

Further, it was not disputed that Claimant's child's father was attending PATH at least through 1/2013. His attendance is evidence suggesting that his impairments do not justify a total lack of attendance from PATH for a two month period. Based on the presented evidence, Claimant failed to establish good cause for her child's father's failure to attend PATH. Accordingly, the employment-related disqualification and FIP benefit termination are found to be proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective 5/2013, due to Claimant's child's father's noncompliance with employment-related activities. The actions taken by DHS are AFFIRMED.



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

Date Signed: 6/6/2013

Date Mailed: 6/6/2013

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.

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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:

