

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

IN THE MATTER OF:



Reg. No.: 201344704
Issue No.: 1038, 2006, 3008
Case No.:
Hearing Date: May 30, 2013
County: Wayne DHS (17)

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 30, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included , Specialist.

ISSUES

The first issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) benefit eligibility due to Claimant's noncompliance with Partnership. Accountability. Training. Hope. (PATH) participation.

The second issue is whether DHS properly terminated Claimant's Medical Assistance (MA) and reduced Claimant's Food Assistance Program (FAP) eligibility due to an alleged failure by Claimant to cooperate in establishing child support.

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, MA and FAP benefit recipient.
2. Claimant was an ongoing PATH participant.
3. On an unspecified date, Claimant reported to a PATH representative that she began employment.

4. Claimant stopped attending PATH because of her employment.
5. On 12/6/12, DHS mailed Claimant a Work Participation Appointment Notice (Exhibit 2) notifying Claimant to attend PATH orientation on 12/17/12.
6. On 3/27/13, 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.
7. On an unspecified date, DHS mailed Claimant a Notice of Case Action terminating Claimant's MA eligibility and reducing Claimant's FAP eligibility, both actions effective 3/2013, due to Claimant's alleged failure to cooperate with establishing child support.
8. On 4/30/13, Claimant requested a hearing disputing the FIP and MA benefit terminations and FAP benefit reduction.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing because of bed bugs. Claimant testified that she required no special arrangements.

Claimant requested a hearing, in part, to dispute a FIP benefit termination. It was not disputed that the basis for the termination was due to noncompliance by Claimant in participating with PATH.

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 (11/2012), 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 began employment shortly after she began attending PATH. DHS asserted that Claimant was noncompliant with PATH by failing to report her employment income.

Claimant conceded that she did not report the income to DHS, but testified that she reported the income to PATH. Claimant provided no details of her income reporting. The fact that Claimant's FIP eligibility was not reduced because of the income was mildly persuasive evidence that Claimant had little interest in reporting the income. Overall, Claimant's testimony was not particularly compelling.

The testimony from DHS was also not compelling. Though Claimant's testimony was not detailed, it was at least first-hand. DHS presented no first-hand evidence testimony to rebut Claimant's testimony that she reported the income to a PATH representative;

DHS could have presented testimony from Claimant's assigned PATH case worker to rebut Claimant's testimony. Further, Claimant credibly testified that she obtained the job based on a referral made by PATH. Thus, it would logically follow that the agency coordinating Claimant's employment opportunity would have had access to Claimant's employment records. It should also be noted that PATH (a contractor for DHS) is the equivalent of DHS, for purposes of reporting information.

Based on the presented evidence, it is found that Claimant sufficiently reported her employment to DHS. Accordingly, the resulting employment-related disqualification and FIP benefit termination were improper.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a termination of Claimant's MA benefit eligibility and reduction in FAP eligibility. DHS did not address Claimant's disputes in the Hearing Summary, but it was discovered during the hearing that DHS adversely affected Claimant's MA and FAP benefits, effective 3/2013, due to an alleged failure by Claimant to cooperate with establishing child support for one or more of her children. Office of Child Support (OCS) policies are located in the Combined IV-D Policy Manual (4DM) and Child Support Manual (CSM).

For FAP and MA benefit eligibility, the custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (12/2011), p. 1. Failure to cooperate without good cause results in disqualification. *Id.* Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. *Id.* The support specialist (i.e. OCS) determines cooperation for required support actions. *Id.*, p. 8.

For FAP benefit eligibility, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 11. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The

remaining eligible group members will receive benefits. *Id.* For MA benefits, failure to cooperate without good cause results in member disqualification. *Id.*

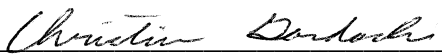
DHS presented no evidence to justify imposing a child support penalty. DHS could not identify which of Claimant's four children was in need of paternal information or how Claimant failed to assist in establishing paternity. Based on the presented evidence, it is found that DHS improperly imposed a child support sanction against Claimant.

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 and MA benefit eligibility. It is further found that DHS improperly reduced Claimant's FAP benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FAP and MA benefit eligibility, effective 3/2013, subject to the finding that DHS wrongly imposed a child support disqualification against Claimant;
- (2) redetermine Claimant's FIP benefit eligibility, effective 5/2013, subject to the finding that DHS wrongly imposed an employment-related disqualification against Claimant;
- (3) remove the relevant child support and employment-related sanctions from Claimant's disqualification history; and
- (4) initiate supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 6/10/2013

Date Mailed: 6/10/2013

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

CG/hw

cc:

