

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

IN THE MATTER OF:



Reg. No.: 201345401
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 3, 2013
County: Wayne DHS (76)

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 June 3, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility and reduced Claimant's Food Assistance Program (FAP) eligibility 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 and FAP benefit recipient.
2. Claimant was not an ongoing PATH participant.
3. On 4/2/13, DHS mailed Claimant a Work Participation Program Appointment Notice to attend PATH on 4/15/13
4. Claimant failed to attend PATH orientation on 4/15/13, or any date thereafter.

5. On 4/22/13, DHS mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on 4/30/13.
6. On 4/22/13, DHS mailed Claimant a Notice of Case Action terminating Claimant's FIP benefit eligibility and reducing Claimant's FAP eligibility, effective 6/2013, due to noncompliance with PATH participation.
7. Claimant failed to attend the triage and DHS determined that Claimant had no good cause for not attending.
8. On 5/3/13, 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).

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (11/2012), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *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.*

The present case involves a FIP benefit termination, effective 1/2013, based on an employment disqualification imposed against Claimant. The employment disqualification was imposed due to Claimant's undisputed failure to attend PATH orientation. There was no evidence that Claimant made any attempts to attend PATH, on the orientation date or thereafter. The failure by Claimant to attend PATH is sufficient to establish 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. BEM 233A (5/2012), 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 alleged that she was unable to attend PATH orientation because she had to work on the date of orientation. Claimant brought pay stubs to the hearing which verified that Claimant worked 5.5 hours during the pay period of 4/6/13-4/12/13 and 34.92 hours for the week of 4/20/13-4/26/13. Claimant also presented DHS with a work schedule showing that she worked four hours on 4/15/13; Claimant stated that she worked from 2:00 p.m.-6:00 p.m. It was not disputed that the PATH orientation appointment was for 4/15/13 at 1:00 p.m. Claimant's documentation is fairly supportive of a basis of a good cause on the basis of an unplanned event.

Though Claimant tended to establish having good cause for not attending PATH, it is questionable whether she timely reported the good cause. Having good cause is irrelevant if it is not timely reported and verified.

It was not disputed that Claimant failed to attend a triage appointment scheduled for 4/30/12. Claimant contended that she had a job interview on the date of triage (Claimant had already lost the job that she began earlier in the month). Claimant brought no documentary evidence to verify that she had an interview. Though Claimant may have difficulty obtaining verification of a job interview, clients with PATH attendance requirements are expected to maintain communication with DHS when they do not attend. The evidence did not support finding that Claimant reported to DHS missing the triage because of a job interview. Despite this finding, it is possible that Claimant reported having employment prior to the triage.

Claimant contended that she made multiple calls to DHS to report that she was employed and/or could not attend the PATH orientation. DHS was unable to recall any such reporting by Claimant. Neither side verified their contention. It was not disputed that DHS never budgeted Claimant's employment income; thus, it would appear that DHS was not informed of Claimant's employment. This is somewhat supportive of finding that Claimant did not report an employment conflict with attending the PATH orientation.

Claimant's allegation that she reported an inability to attend PATH was questionable, however, her verification that she was employed at the time is deemed to make it marginally more probable than not that she also reported the good cause to DHS or PATH prior to the triage. Accordingly, it is found that Claimant verified and reported good cause for not attending PATH and that the FIP benefit termination 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 benefit eligibility. It is ordered that DHS initiate:

- (1) redetermination of Claimant's FIP benefit eligibility, effective 6/2013, subject to the finding that Claimant had good cause for her lack of PATH attendance;
- (2) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (3) removal of any relevant disqualification from Claimant'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: 6/11/2013

Date Mailed: 6/11/2013

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:

