

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201346978
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 10, 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 10, 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, and [REDACTED], PATH representative.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) 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 benefit recipient.
2. Claimant was an ongoing PATH participant.
3. Claimant had a 20 hour weekly PATH obligation.
4. Claimant attended PATH the following amount of hours: 4.5 hours for the week beginning 3/24/13 and 1 hour the week beginning 3/31/13.

5. On 4/1/13, PATH mailed Claimant a letter warning Claimant of her attendance falling below her required hours.
6. After receiving the letter, Claimant attended PATH the following amount of hours: 22 hours for the week beginning 4/7/13, 15 hours for the week beginning 4/14/13 and 15.5 hours for the week beginning 4/21/13.
7. On an unspecified date, DHS determined that Claimant's absences from PATH amounted to noncompliance.
8. On 5/7/13, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 6/2013, due to noncompliance with PATH participation.
9. On 5/7/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage meeting to be held on 5/14/13.
10. Claimant attended the triage and claimed good cause for missing PATH based on a claim of transportation difficulties.
11. DHS determined that Claimant had no good cause for the alleged employment-related noncompliance.
12. On 5/14/13, 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.*

It was not disputed that Claimant failed to meet a total of 9.5 hours of PATH attendance over a two week period in 4/2013. By itself, the absences totaling 9.5 would not be sufficient to establish noncompliance. As it happened, Claimant also only attended PATH for one hour during the week of 3/31/13. The total absences for 4/2013 amounted to 29 hours. This is found to be a sufficient 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 did not address her lack of PATH participation from the weeks beginning 3/24/13 and 3/31/13. Claimant testified that she had difficulties with public transportation for the weeks of 4/14/13 and 4/21/13. Specifically, Claimant testified that public transportation failed to pick her up on at least one occasion when it was scheduled to arrive.

Claimant did not verify her basis for good cause. In fairness to Claimant, poor public transportation is not an easily verifiable excuse. Thus, little information can be gleaned from the lack of verification.

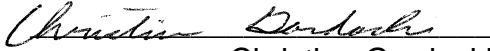
It was not disputed that Claimant was assigned to perform community service in order to meet her PATH obligations. Even if Claimant had public transportation on a particular day, it would seem that Claimant could have made up the hours at a later time or day of the week. Claimant was asked about this possibility and failed to give a logical reason why she didn't make-up the hours. This is supportive in finding a lack of good cause.

Claimant was also very hazy in her recollection of dates. For example, Claimant asserted that part of her basis of good cause for the 4/2013 absences was that she was assigned to a very inconvenient community service location. Based on their notes and entry dates, DHS credibly responded that Claimant's community service location was changed in 2/2013. Claimant's poor recollection of when DHS changed her community service location made it more likely that she did not testify accurately concerning her absences for the weeks of 4/14/13 and 4/21/13.

It was exceptionally tempting to find that Claimant had good cause based on a variety of factors. These factors included: a reasonable possibility that public transportation failed Claimant, Claimant attending a triage and hearing while giving consistent excuses and Claimant's apparent lengthy compliance in the PATH program. Ultimately, it is determined that DHS gave Claimant a second chance but Claimant took it for granted shortly after getting the chance. Based on the presented evidence, it is found that Claimant failed to establish good cause for her absences from PATH. Accordingly, the FIP benefit termination is 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 6/2013, due to Claimant'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: 6/19/2013

Date Mailed: 6/19/2013

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:

