

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-50179
Issue No.: 1038, 5012
Case No.: [REDACTED]
Hearing Date: June 27, 2013
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 27, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

1. Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with PATH?
2. Did the Department properly deny the Claimant's State Emergency Relief (SER) application?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of January 14, 2013, the Claimant was participating in the PATH program (formerly WF/JET).
2. On or around April 5, 2013, the Claimant was found to be noncompliant with PATH as the Claimant was duplicating her job log entries in violation of her PATH agreement.
3. On April 5, 2013, the Claimant signed a re-engagement letter with PATH.
4. On April 12, 2013, the Claimant applied for SER requesting housing assistance.
5. On May 1, 2013, the Claimant was again found to be duplicating her job log entries in violation of her PATH agreement.

6. On May 1, 2013, the Department sent the Claimant a notice of case action and notice of noncompliance. The notice of case action indicated the Claimant's FIP benefits were closing due to noncompliance with the PATH program. The notice of noncompliance indicated the Claimant had an appointment on May 22, 2013 to show good cause for her noncompliance with the PATH program.
7. Prior to May 10, 2013, the Claimant moved into the new residence in which she was seeking to relocate to.
8. On May 10, 2013, the Department denied the Claimant's SER application as the Claimant no longer had an emergency need reason and lacked the financing to make the new housing affordable.
9. On May 22, 2013, the Claimant participated in the scheduled triage. The Claimant did not provide the Department with a good cause reason as to why she was noncompliant with PATH (duplicating job entries).
10. On May 22, 2013, the Claimant requested a hearing to protest the SER denial and the FIP closure.

CONCLUSIONS OF LAW

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

- As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for 3 calendar months unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below.
- For the second occurrence on the FIP case, close the FIP for 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA.

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. BEM 233A, pp. 10-11.

In regards to the FIP closure, I find the Department's actions were appropriate given the fact the Claimant admitted to duplicating her job log entries and to understanding the programs requirements/penalties (Work and/or Self-Sufficiency Rules).

Additionally, State Emergency Relief (SER) assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. However, the Department is to authorize relocation services ONLY if the SER group is homeless.

The definition of homeless includes:

- Persons living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to. Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless.

- Persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, foster care, a substance abuse facility or a mental health treatment setting with no plan or resources for housing and no housing to return to.
- Persons who meet the eligibility requirements for one of the following homeless assistance programs:
 - Homeless Assistance Recovery Program (HARP).
 - Transitional Supportive Housing Leasing Assistance Program (TSHLAP).
 - Transition In Place Leasing Assistance Program (TIPLAP).
 - Rapid Re-Housing Leasing Assistance.
 - Temporary Basic Rental Assistance (TBRA) funded by MSHDA.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given to the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's witnesses to be more credible than the Claimant as the Department witnesses had a clearer grasp of the dates, times and events in question. Additionally, the Claimant failed to provide to this office any evidence that she was in fact homeless at the time the SER decision was issued. Although the Claimant indicated she had documentation, she would have needed additional time to go to the Landlord to obtain it before presenting it. The Claimant received a notice of hearing and had an opportunity to acquire this information prior to the hearing if it indeed existed.

Consequently, by definition, the Claimant is not considered homeless and therefore is not eligible for SER relocation services as the Claimant had relocated and moved into the new housing prior to any negative action taking place.

Accordingly, I **AFFIRM** the Department's actions in this matter.

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, find the Department did act appropriately in this matter.

Accordingly, the Department's decision is **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 28, 2013

Date Mailed: June 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

2013-50179/CAA

CAA/las

cc:

