

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-52307
Issue No.: 1038, 5034
Case No.: [REDACTED]
Hearing Date: July 11, 2013
County: Kalamazoo 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 July 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with PATH?

Did the Department properly deny the Claimant's application for State Emergency Relief (SER)?

FINDINGS OF FACT

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

1. As of October 17, 2011, the Claimant was enrolled in the Work First/Jobs, Education and Training ("WF/JET" now known as PATH).
2. The Claimant failed to turn in her job assignments for the weeks of October 30, 2011, November 6, 2011 and November 13, 2011.
3. On November 28, 2011, the Department sent the Claimant a notice of noncompliance.
4. On December 5, 2011, the Claimant called to reschedule her triage appointment. The triage was rescheduled for December 20, 2011.

5. On December 20, 2011, the Claimant failed to appear for the triage. The Department determined that the Claimant did not have good cause for the findings of noncompliance and proceeded to sanction and close the Claimant's FIP case.
6. On February 9, 2012, a hearing was held by ALJ C. Adam Purnell regarding the Department's closure and sanctioning of the Claimant's FIP case.
7. On February 15, 2012, ALJ Purnell found in the Department's favor and affirmed the Department's actions.
8. On April 1, 2013, the Claimant enrolled in the PATH program and signed the customer release of information, the AEP contract, the PATH contract, the noncompliance process and policy, the PATH job search check in dress code, and the AEP/PATH code of conduct.
9. On or around April 22, 2013, the Claimant submitted to PATH a volunteer service form. The form indicated volunteer service at Senior Services.
10. On May 3, 2013, PATH issued the Claimant a noncompliance warning notice. The notice was issued for failing to submit job search logs for April 21, 2013 and April 28, 2013 as well as failing to attend a scheduled meeting on May 2, 2013 at 1:30 pm. The notice indicated the Claimant must attend a re-engagement meeting on May 7, 2013.
11. On May 7, 2013, PATH provided the Claimant with a re-engagement agreement. The re-engagement came with a stipulation the Claimant submit a verification of employment to the case manager by May 10, 2013 at 4:00 pm. The Claimant agreed to the stipulation.
12. On May 10, 2013, the Claimant arrived for her prescheduled appointment. At the time of the appointment, the Claimant had not yet obtained the necessary verification of employment information. Just prior to the appointment, the Claimant asked PATH to fax the request of information sheet to the employer. With some difficulty, PATH successfully transmitted the request for information page to the Claimant's employer.
13. At the end of the day on May 10, 2013, the Claimant had still not turned in the requested employment verification information.
14. On May 10, 2013, PATH issued the Claimant a triage meeting notice.
15. On May 13, 2013, the Department sent the Claimant a notice of case action and notice of noncompliance. The notice of noncompliance indicated a triage was to take place on May 23, 2013.

16. On May 15, 2013, the Claimant called the Department and left a message indicating she needed the triage to be scheduled after June 12, 2013 due to issues with her son's IEP.
17. On or around May 15, 2013, the Department returned the Claimant's call and spoke with the Claimant. A discussion ensued covering the topic of the triage. At this time, the Claimant indicated she would be at the triage as she really only needed to make sure the triage wasn't scheduled for the week of May 12, 2013 as this was the week she had meetings with her son's school for her son's IEP review.
18. On May 23, 2013, the Claimant did not appear for the triage at the scheduled start time and it was held in the Claimant's absence. The Department determined the Claimant did not have good cause.
19. At some point in time during the time period in question, the Claimant applied for SER indicating a need for automotive repairs. That SER application was denied.
20. On June 4, 2013, the Claimant requested a hearing to dispute the Department's denial of SER and closure and sanctioning of the FIP case.

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).

The SER program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1999 AC, R 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

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.

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 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

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).

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 produce any evidence to corroborate her claims (records, faxes etc) that she had complied with all PATH requirements and the Department had been removing records from her file.

Additionally, the employment verifications were due by 4:00 p.m. on May 10, 2013. The Claimant agreed to this on May 7, 2013. The Claimant failed to produce any evidence of good cause to show why or how she was unable to obtain the information that was being requested. The Claimant had the responsibility to obtain the information from her employer. I do not find it reasonable for the Claimant to turn around and indicate but for the Department's fax machine issue she would have submitted the documents on time. The documents were due at 4:00. The Claimant arrived at approximately shortly before 4:00 requesting the Department to send documentation to the employer. Even had the fax gone through on the first attempt, there is no guarantee the employer would have turned around and submitted the requested information on time by 4:00. The Claimant knew about the deadline for several days. The Claimant's lack of effort is inexcusable.

Furthermore, the Claimant alleges the Department removed documentation from her file, specifically the plans and job logs. The Claimant indicated she had evidence of this (testimony from other witnesses), but failed to present anyone to testify.

The Claimant also had an issue with the triage. The Claimant indicated she was late due to an IEP for her son. The triage notice is very clear that in order to participate in the triage, the Claimant must be on time or reschedule prior to the start time. The Claimant agreed she was late and there is no evidence that the Claimant requested a rescheduling after May 15, 2013 (when she indicated she would be there after requesting a rescheduling). Additionally, in review of the MIS notes, I found the Claimant to have a long history of rescheduling due to IEP's and missing appointments.

Consequently, based upon the evidence presented, I find the Claimant indeed failed to adhere to PATH policies by failing to keep her scheduled appointments and failing to submit completed job logs. Additionally, I find no evidence of good cause and therefore affirm the Department's decision to close and sanction the Claimant's FIP case.

SER prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101. SER does not cover automobile repairs. There is no such service under the SER program.

Therefore, I find the Department acted accordingly, in denying the Claimant's SER application for automobile repairs.

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

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly closed and sanctioned the Claimant's FIP benefits for noncompliance with PATH requirements.
2. The Department properly denied the Claimant's SER application for automobile repairs.

Accordingly, the Department's actions are **AFFIRMED**.



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

Date Signed: July 17, 2013

Date Mailed: July 17, 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.

2013-52307/CAA

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Recons ideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAA/las

cc:

