

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201363448
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 11, 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 September 11, 2013, from Detroit, Michigan. Participants included [REDACTED], Claimant's spouse. [REDACTED] testified and appeared as Claimant's spouse's translator. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) due to Claimant's spouse'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's spouse was an ongoing FIP benefit recipient.
2. Claimant's spouse was not an ongoing PATH participant.
3. Claimant's spouse reported to DHS a medical issue which would impact her ability to attend PATH.
4. On an unspecified date, Claimant's spouse returned to DHS a Medical Needs form which listed various restrictions but failed to indicate a diagnosis or reason for the restrictions.

5. On [REDACTED]/13, DHS mailed Claimant's spouse a new Medical Needs form along with a Verification Checklist giving Claimant's spouse until [REDACTED]/13 to return the form.
6. Claimant's spouse failed to return the Medical Needs form.
7. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant's spouse and mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective [REDACTED]/2013, due to noncompliance with PATH participation.
8. On [REDACTED]/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 alleged noncompliance by Claimant's spouse in PATH participation.

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.*

At FIP benefit application, DHS is to temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities. BEM 229 (1/2013), p. 2. Though the policy requirement to evaluate clients for disabilities specifically applies to applicants, the policy is presumed to equally apply for recipients not attending PATH in lieu of specific policy written for recipients. It is found that DHS had an obligation to evaluate Claimant for deferral based on a claimed disability.

Determination of a long-term disability is a three step process. BEM 230A (1/2013), p. 10. The first step is providing DHS with verification of the disability when requested. *Id.* The verification must indicate that the disability will last longer than 90 calendar days. *Id.* If the verification is not returned, a disability is not established. *Id.* The client will be required to fully participate in PATH as a mandatory participant. *Id.*

DHS provides what documents are acceptable verifications of disability. If the client claims a disabling condition expected to last more than 90 days, it must be verified by one of the following: note from client's doctor, DHS-49, DHS-54A or DHS-54E.

Claimant's spouse returned a Medical Needs form to DHS (DHS-54E). DHS responded that the form failed to indicate a diagnosis. Claimant's spouse testified that she was unaware that the form was incomplete because her physician returned the form directly to DHS. Clients should be responsible for insuring the completion of documents; thus, Claimant's spouse's argument was not persuasive. Further, DHS responded reasonably by mailing Claimant's spouse a second Medical Needs form, which was unreturned. Claimant's spouse responded that she did not receive the form, though this was also not a persuasive response.

Traditionally, a medical diagnosis is fundamental requirement for a claim of disability. It would seem very troublesome that Claimant's spouse's disability form listed no diagnosis. However, in the context of the disability analysis for PATH deferral, the failure to indicate a diagnosis is not a serious omission as DHS contended.

DHS policy states the following concerning the second step of the disability analysis:

For verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation. Id.

It was not disputed that Claimant's spouse's Medical Needs form verified a physician statement that her impairments were expected to last longer than 90 days. That mere statement from a physician was sufficient to get Claimant's spouse to step two of the disability analysis. During the second step, Claimant's spouse could have submitted verification of a diagnosis. DHS never gave Claimant's spouse that opportunity.

Based on the presented evidence, it is found that DHS failed to sufficiently evaluate Claimant's spouse for an alleged disability. Accordingly, the subsequent FIP benefit termination and employment-related disqualification were 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:

- (1) reinstate Claimant's FIP benefit eligibility, effective [REDACTED]/2013, subject to the finding that DHS failed to fully evaluate Claimant's spouse for a PATH deferral based on long-term disability;
- (2) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (3) remove any relevant employment-related disqualification from Claimant's or Claimant's spouse's history.

The actions taken by DHS are REVERSED.



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

Date Signed: 9/20/2013

Date Mailed: 9/20/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

