

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-64776
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: September 19, 2013
County: Oakland DHS (02)

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 19, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], PATH Coordinator, [REDACTED], PATH Case Manager, and [REDACTED] PATH Program Coordinator.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) and reduced Claimant's Food Assistance Program (FAP) eligibility due to 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 employed.
3. While Claimant was employed, PATH allowed Claimant to submit proof of employment so that employment hours could be used to meet Claimant's PATH participation requirements.

4. On an unspecified date prior to [REDACTED]/2013, Claimant stopped submitting pay stubs to PATH.
5. On an unspecified date in [REDACTED]/2013, Claimant emailed her PATH case manager to request closure of FIP benefits.
6. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Case Action initiating termination of FIP benefit eligibility and reducing FAP eligibility, effective [REDACTED] 2013, due to noncompliance with PATH participation.
7. 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, in part, to dispute a FIP benefit termination. It was not disputed that DHS terminated Claimant's FIP eligibility due to alleged noncompliance by Claimant with 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.*

It was not disputed that Claimant had an obligation to attend PATH. In lieu of attendance, PATH allowed Claimant to submit pay stubs, which verified that she was employed. Claimant's last submitted pay stub to PATH verified employment for the week ending [REDACTED]/13. Claimant's PATH specialist credibly testified that Claimant stopped submitting further pay stubs, which eventually led to requiring Claimant to attend the PATH worksite. Claimant expressed displeasure at having to return to PATH. The obligation to return to PATH and a relatively small amount of FIP benefits (\$39) led to Claimant requesting closure of her FIP eligibility in [REDACTED]/2013.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220 (7/2013), p. 2. Adequate notice is given when a recipient or his legal guardian or authorized representative requests in writing that the case be closed.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. *Id.*, p. 3. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.* The action is pended to provide the client a chance to react to the proposed action. *Id.*

Claimant's PATH case manager testified that she mailed a request for a signed statement from Claimant concerning case closure. It was not disputed that Claimant failed to respond to the request. DHS contended that a request for closure must be signed and that Claimant's email request was unsigned; therefore, it was not "in writing".

Whether Claimant's request was considered "in writing" or not is irrelevant. There is no DHS policy requiring that clients must request case closures in writing. DHS policy merely requires that written notice is required for an immediate termination of benefits. DHS should have interpreted Claimant's email request as a non-written request for closure and provided Claimant with timely notice of the benefit termination. It is found that Claimant made a request for FIP closure and that DHS failed to process the request. Had DHS processed Claimant's request, Claimant's FIP eligibility would still have ended, but no disqualification would have occurred.

DHS presented intriguing testimony that Claimant either revoked her request for benefit termination or never meant for DHS to terminate her eligibility. During a telephone conference with Claimant on [REDACTED]/13, DHS alleged that Claimant stated that she was going to lose her job that day and expressed a desire to continue receiving FIP benefits. DHS informed Claimant that she had to attend PATH on [REDACTED]/13. It was not disputed that Claimant failed to attend. It is difficult to fault DHS for not processing a request for case closure when it is not disputed that Claimant requested continued benefit eligibility shortly after making a request for benefit closure

Claimant's testimony also tended to diminish the significance of her email request for case closure. Claimant expressed dissatisfaction concerning her loss of time when she claimed to return to PATH in [REDACTED]/2013. Claimant's testimony implied that DHS owed her FIP benefits for [REDACTED]/2013. Claimant cannot reasonably claim that she should be excused from failing to PATH in [REDACTED]/2012 because DHS should have closed her FIP eligibility in [REDACTED]/2013, while also claiming that she should continue to receive FIP benefits because she attempted to attend PATH in [REDACTED]/2013.

Despite Claimant's actions and statements after her request for benefit termination, at the time of the request, the request was unequivocal. It is found that DHS should have terminated Claimant's FIP eligibility based on Claimant's [REDACTED]/2013 request for FIP closure. Accordingly, no disqualification should have occurred, though a FIP benefit termination properly occurred.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a FAP benefit reduction. The FAP reduction was also based on alleged noncompliance with PATH participation.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;

- the client did not comply with FIP employment requirements;
 - the client is subject to a penalty on the FIP program;
 - the client is not deferred from FAP work requirements; and
 - the client did not have good cause for the noncompliance.
- BEM 233B (1/2013), p. 2.


Based on the above finding that Claimant was not non-compliant with PATH participation because DHS should have ended her eligibility, it is found that DHS had no basis to impose an employment-related disqualification against Claimant. Accordingly, the FAP benefit reduction was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective █/2013, subject to the findings that Claimant requested a termination of FIP benefits in █/2013 and that Claimant was not non-compliant with PATH participation in █/2013;
- (2) supplement Claimant for any FAP benefits improperly not issued; and
- (3) remove any relevant FAP and/or FIP 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: 9/27/2013

Date Mailed: 9/27/2013

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:

