

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-66971
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 9, 2013
County: Oakland DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 9, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included Dianne Dubin, Manager, [REDACTED] Specialist, [REDACTED], Michigan Works! Agency (MWA) Case Manager, and [REDACTED], PATH Coordinator.

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 not an ongoing PATH participant.
3. Claimant had an unspecified weekly obligation to attend PATH.
4. On [REDACTED]/13, Claimant attended a PATH orientation but left within a few minutes after arriving due to an alleged work obligation.

5. On [REDACTED]/2/13, Claimant's PATH case manager called Claimant and arranged an appointment for Claimant on [REDACTED]/13, Claimant's next scheduled day off from work.
6. Claimant failed to attend the appointment dated [REDACTED]/13.
7. On [REDACTED]/13, Claimant's PATH manager called Claimant and arranged for Claimant to return on [REDACTED]/13.
8. Claimant failed to attend her rescheduled appointment on [REDACTED]/13.
9. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant 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.
10. On [REDACTED]/13, DHS mailed Claimant a Notice of Non-Compliance scheduling Claimant for a triage telephone appointment to be held on [REDACTED]/13.
11. On [REDACTED]/13, Claimant failed to participate in the triage.
12. 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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services 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 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.*

It was not disputed that Claimant attended a PATH orientation at 9:00 a.m. on [REDACTED]/13 and left early. DHS estimated that Claimant stayed only ten minutes before leaving, allegedly for employment which started at 10:00 a.m. Claimant denied staying for only ten minutes but did not dispute that she told PATH that she had to leave early to make it to work by 10:00 a.m. A PATH representative testified that she spoke with Claimant on [REDACTED]/13 and informed Claimant to call the following day so that arrangements could be made for Claimant to continue her participation. PATH representatives testified that Claimant did not follow-up with a telephone call. A second PATH representative testified that she called Claimant on [REDACTED]/13 and scheduled an appointment for Claimant to return to PATH on [REDACTED]/13 so that Claimant could complete a required orientation interview. The PATH representative further testified that Claimant missed the appointment and a second appointment was made for Claimant for [REDACTED]/13. PATH

presented testimony that Claimant was placed into noncompliance after Claimant failed to attend the second appointment.

Claimant testified that PATH representatives told her to submit verification of her employment and a copy of her birth certificate, which she did on [REDACTED]/13. Claimant conceded not attending PATH after [REDACTED]/13, but testified that PATH never informed her of any such appointments. Neither Claimant nor PATH representatives verified their testimony with documentation.

For Claimant's testimony to be credible, it would have to be accepted that two different PATH representatives did not attempt to engage Claimant in returning to PATH and that the representative falsely testified concerning attempts to engage Claimant's return to PATH. For PATH's testimony to be credible, it would have to be accepted that Claimant displayed poor efforts in PATH attendance.

The history presented by PATH detailed logical, consistent, empathetic and reasonable actions. For example, it was not disputed that Claimant had obligations to attend PATH in [REDACTED]/2013 and [REDACTED]/2013 but that she was excused on both occasions. It was not disputed that Claimant was given opportunities to return to PATH after leaving orientation early. The actions of PATH were consistent with trying to work with Claimant and her work schedule to engage her in attendance. The actions of Claimant were consistent with a chronic failure to comply with cash assistance obligations. It is improbable that PATH representatives failed to inform Claimant of an obligation to return or that Claimant could have innocently misunderstood that she was to return to PATH. It is found that DHS established a basis for noncompliance.

WEIs will not be terminated from a WPP program 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 and the penalty duration. *Id.*, p. 8. In addition, a 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.*

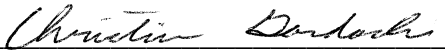
Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A (5/2012), p 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no childcare, 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's only excuse for not attending PATH was that she was unaware of her obligation to attend; Claimant's excuse was unpersuasive. Claimant failed to assert good cause.

Based on the presented evidence, it is found that Claimant was noncompliant with PATH participation. Accordingly, it is found that DHS properly imposed an employment-related disqualification and terminated Claimant's FIP eligibility.

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 FAP benefit eligibility, effective **█**/2013. The actions taken by DHS are AFFIRMED.


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

Date Signed: 10/16/2013

Date Mailed: 10/16/2013

NOTICE OF APPEAL: 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.

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).

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

2013-66971/CG

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:

