

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

IN THE MATTER OF:



Reg. No.: 201416142
Issue No.: 1038, 2011, 3001
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 January 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUES

1. Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with employment and/or self-sufficiency related activities?
2. Whether the Department of Human Services (Department) properly closed the Claimant's Medical Assistance (M.A.) benefits for failure to cooperate with the Office of Child Support.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (M.A.) recipient.
2. On October 14, 2013, the Claimant's employment was terminated for absenteeism.
3. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.

4. The Claimant was found to be noncompliant with the PATH program for refusing suitable employment for absenteeism.
5. The Department conducted a triage meeting on October 25, 2013.
6. On October 31, 2013, the Department notified the Claimant that it would sanction her FIP benefits as of December 1, 2013.
7. On November 18, 2013, the Claimant's Medical Assistance (M.A.) was terminated for noncooperation with the Office of Child Support as of January 1, 2014.
8. The Department received the Claimant's request for a hearing on January 15, 2014, protesting the sanctioning of her FIP benefits.

CONCLUSIONS OF LAW

ISSUE 1

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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PATH case managers use the One-Stop Management Information System (OSMIS) to record the clients' assigned activities and participation. Department of Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2013), p 1.

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p 1.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to Participate in required activity. Department of Human Services Bridges Eligibility Manual (BEM) 233A (January 1, 2013), pp 2-3.

Refusing suitable employment means doing any of the following:

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job (see exception below).
- Firing for misconduct or absenteeism. BEM 233A.

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. BEM 233A, pp 3-4.

Good cause should be determined 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

Good cause includes the following:

Illness or Injury: The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

No Transportation: The client requested transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction. BEM 233A.

- A noncompliant person must serve a minimum one-month or six-month Food Assistance Program (FAP) disqualification period unless one of the criteria for ending a disqualification early exists. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 10.

In this case, the Claimant was an ongoing Family Independence Program (FIP) recipient until December 1, 2013, and the Department had referred her to the PATH program as a condition of receiving FIP benefits. The Claimant was noncompliant with the PATH program when she was terminated from her employment for absenteeism, which fits the Department's definition of refusing suitable employment. The Department conducted a triage meeting on October 25, 2013, where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. The Claimant did not attend the triage meeting and the Department determined whether she had good cause without her input. The Department determined that the Claimant did not have good cause for her noncompliance. On October 31, 2013, the Department notified the Claimant that it would sanction her Family Independence Program (FIP) benefits as of December 1, 2013. As a result of her PATH noncompliance, the Claimant's Food Assistance Program (FAP) benefits were also sanctioned.

The Claimant argued that she had good cause for being terminated from her employment. The Claimant testified that her absenteeism was caused by a lack of transportation as well as illness or injury.

On October 25, 2013, the Claimant was given the opportunity to present evidence to explain to the Department that the factors that led to her loss of employment were beyond her control. When the Claimant failed to attend the triage meeting on October 25, 2013, the Department properly considered whether she had good cause without her input. The Department was aware that the Claimant suffers from debilitating illnesses. The Department was aware that the Claimant had transportation problems.

However, the Department had no evidence supporting a finding that the Claimant's loss of employment due to absenteeism was a result of her illness or lack of transportation. It is the Claimant's burden to present evidence to establish good cause for her noncompliance. Based on the information available to the Department at the triage meeting, the Department has established that it was acting in accordance with policy when it determined that good cause was not present in this case.

The Claimant argued that he continued to participate in PATH activities after her loss of employment.

This Administrative Law Judge finds that the Claimant's subsequent participation in the PATH program is not relevant to the issue of whether she was noncompliant with the PATH program without good cause.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For

the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. Department of Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 2.

Based on the evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for her noncompliance with the PATH program is reasonable. The Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with self-sufficiency related activities.

ISSUE 2

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Department's representative testified that the Claimant was sent notice on November 18, 2013, that her Medical Assistance (M.A.) would close as of January 1, 2014, as a result of her noncooperation with the Office of Child Support.

The Department has the burden of offering evidence to show that it properly applied its policies to the Claimant's circumstances. On November 25, 2013, the Department received the Claimant's request for a hearing, which has Medicaid checked as a program that the Claimant was protesting.

This Administrative Law Judge finds that the Department failed to present sufficient evidence supporting the closure of the Claimant's Medical Assistance (M.A.). While it is likely that the closure of Medical Assistance (M.A.) was not a result of any action taken by the Claimant's caseworker, the Claimant has the right to challenge this benefit closure. The case closure was the result of a noncooperation sanction entered into the Claimant's benefit records by the Office of Child Support, and the Department is responsible for ensuring that this information is accurate. Following the Claimant's request for a hearing, the Department had a duty to present evidence supporting its actions.

Therefore, this Administrative Law Judge has no choice but to reverse the Department's closure of the Claimant's Medical Assistance (M.A.) benefits case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) and Food Assistance Program

(FAP) benefits for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Medical Assistance (M.A.) for noncooperation with the Office of Child Support.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the sanctioning of her Family Independence Program (FIP) and Food Assistance Program (FAP) benefits and **REVERSED IN PART** with respect to the closure of her Medical Assistance (M.A.).

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Provide the Claimant with a ten day period to clarify whether she has cooperated with the Office of Child Support.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (M.A.) as of January 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-16 05) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.

Kevin



Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 17, 2014

Date Mailed: January 17, 2014

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

KS/hj

cc:

