

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14219
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (76)

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 January 31, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED] Specialist, and [REDACTED], Michigan Works! Agency (MWA) Case Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) 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 an ongoing PATH recipient.
3. Claimant had a 20 hour/week obligation to attend PATH.
4. Claimant participated the following hours with PATH:
 - a. 14 hours for the week beginning [REDACTED];
 - b. 0 hours for the week beginning [REDACTED];

- c. 10 hours for the week beginning 1 [REDACTED]; and
 - d. 4 hours for the week beginning [REDACTED]
 - e. 0 hours for the week of [REDACTED]
5. On an unspecified date, PATH determined Claimant to be noncompliant with PATH participation.
 6. On [REDACTED] DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Case Action initiating termination of FIP benefit eligibility, effective [REDACTED] due to Claimant's noncompliance with PATH participation.
 7. On [REDACTED] DHS mailed Claimant a Notice of Noncompliance informing Claimant of a triage to be scheduled on [REDACTED]
 8. On [REDACTED] Claimant attended the triage and informed DHS that she was employed part-time.
 9. DHS determined that Claimant's employment was not good cause and allowed Claimant's FIP eligibility to terminate.
 10. On [REDACTED] 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 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 (10/2013), 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 (7/2013), pp. 2-3.

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.*, p. 1. 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.*

DHS alleged that Claimant was noncompliant with PATH participation obligations. It was not disputed that Claimant had a 20 hour/week obligation to participate with PATH. It was not disputed that Claimant only participated for 14 hours for the week beginning [REDACTED] and 0 hours for the week beginning [REDACTED]. DHS presented testimony that Claimant's poor participation led to the mailing of a re-engagement letter. A re-engagement letter serves as a warning to a client that a continued lack of participation could result in a finding of noncompliance. Following the mailing of the re-engagement letter, Claimant participated for 10 hours for the week beginning [REDACTED], 4 hours for the week beginning [REDACTED] and 0 hours the week beginning [REDACTED]. Claimant's repeated failure to comply with her 20 hour/week obligation was an appropriate basis for DHS to determine that Claimant was noncompliant with PATH participation.

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. 9. On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. *Id.*, p. 10. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment and/or Self Sufficiency Related Noncompliance, which is sent to the client. *Id.*, pp. 10-11. The following information will be populated on the DHS-2444: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration. *Id.*, p. 11. DHS is to determine good cause during 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. *Id.*, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.*, pp. 3-6. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. *Id.*, p. 11. If the client establishes good cause within the negative action period, DHS is to reinstate benefits. *Id.*, p. 13.

Claimant's testimony suggested that her acceptance of employment excused her from PATH participation. Claimant testified that she obtained employment near the time of her noncompliance. Claimant also testified that she accepted employment several weeks before her first day of work. Claimant presented pay stubs to DHS which tended to verify that her first day of employment occurred on [REDACTED]. Claimant's claim of good cause is weakened when factoring that her first day of employment occurred several days after DHS established that Claimant was noncompliant.

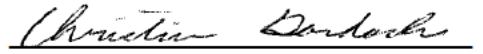
The MWA employee participating in the hearing credibly stated that all clients are told that PATH participation is expected even after an employment offer is accepted. This testimony tended to establish that Claimant should have known of her obligation to attend PATH even if employment was imminent.

DHS also noted that Claimant's presented check stubs verified employment of less than 20 hours per week. Part-time employment is a less persuasive excuse for failing to participate with PATH, as opposed to full-time employment.

Based on the presented evidence, it is found that Claimant did not have good cause for not complying with PATH participation. Accordingly, it is found that DHS properly 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 FIP benefit eligibility, effective [REDACTED]. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 2/18/2014

Date Mailed: 2/18/2014

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

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:

