

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27294
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] General Services Program Manager, [REDACTED] [REDACTED] Family Independence Specialist, and [REDACTED] [REDACTED] Human Resource Specialist with Michigan Works.

ISSUE

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

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 a recipient of FIP benefits and both [REDACTED] [REDACTED] ([REDACTED] and [REDACTED] [REDACTED] are mandatory PATH participants.
2. On December 8, 2013 the Medical Review Team (MRT) determined [REDACTED] was work ready with limitations.
3. On January 23, 2014, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) based on not participating in required activities.
4. On January 23, 2014, a Notice of Case Action was issued to Claimant stating the FIP case would close for at least 3 months effective March 1, 2014 due to an alleged violation of the PATH program requirements.

5. On February 7, 2014, the Claimant filed a request for hearing contesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. 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 230 A

The Department 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. Clients should not be referred to orientation and PATH AEP until it is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated. BEM 229

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. Determination of a long-term disability is a three step process. The client must fully cooperate with the first two steps. The first step is establishment of disability. Once a client claims a disability he/she must provide DHS with verification of the disability when requested and the verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant. The second step is defining the disability. 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 Department 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. The third step is referral to MRT. Recipients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230 A.

A WEI and non-WEIs¹, who fails to participate in employment or self-sufficiency-related activities without good cause, must be penalized. 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 of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. BEM 233A.

Noncompliance of applicants, recipients, or member adds includes, without good cause, failing or refusing to: provide legitimate documentation of work participation, participate in employment and/or self-sufficiency-related activities; and participate in required activity. 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. The policy lists several circumstances for good cause, including the client having a debilitating illness or injury. BEM 233A.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Good cause is 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 PATH. 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 233 A.

In this case, the Department asserts that ■■■ has been noncompliant with the PATH program requirements based on a failure to participate in required activities. The evidence establishes that both ■■■ and ■■■ reported disabilities and were deferred while medical records were obtained then sent to the MRT.

The alleged non-compliance at issue in this case was ■■■'s failure to participate in required activities after the MRT determined he was work ready with limitations. Specifically, the Department alleges ■■■ did not submit any log for the week of January 12, 2014 and did not complete required hours or timely communicate any barriers.

The Department noted that ■■■ had been given a prior non-compliance warning for not submitting any logs the week of December 29, 2013 and had signed a Re-engagement Agreement on January 6, 2014. (Exhibit A, pages 124-125) By signing

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

the Re-engagement Agreement, ■■■ indicated from this point forward he would: complete his activities as assigned, turn in his documentation as required, contact MWA if supportive services are needed, and comply with the requirements of this program. (Exhibit A, page 125) As noted above, the alleged non-compliance at issue is the failure to submit any log for the week of January 12, 2014, and not completing required hours or timely communicating any barriers.

On January 21, 2014, ■■■ submitted a letter from his doctor dated January 14, 2014 stating To. W. is experiencing persistent pain that limits his ability to spend sustained time working requesting he be excused from his requirements. (Exhibit A, pages 140 and 155) A triage meeting was held on January 30, 2014, To. W. was a no call, no show, and the Department did not find good cause for the non-compliance. (Exhibit A, pages 142 and 155)

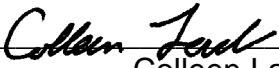
■■■ provided some testimony regarding specific medical issues the week of December 29, 2013 and issues relating to the required participation hours his first week of PATH. However, the non-compliance at issue for this hearing is for the week of January 12, 2014. ■■■ testified that he did not believe he had anywhere near the required hours to log that week. It appears there was also some confusion regarding logging self-employment hours when there is a delay before ■■■ is paid by his clients. ■■■ also noted his primary doctor had not yet cleared him to work at that time.

Claimant did not provide sufficient credible evidence to establish good cause for ■■■'s failure to comply with PATH program requirements for the week of January 12, 2014. ■■■ had just signed the Re-engagement Agreement on January 6, 2014 indicating his agreement that from this point forward he would: complete his activities as assigned, turn in his documentation as required, contact MWA if supportive services are needed, and comply with the requirements of this program. (Exhibit A, page 125) The Case Note print out documents that ■■■ attended a weekly participation meeting January 13, 2014, during which it was reviewed how to complete logs correctly. It was also noted ■■■ understood that if his logs are not correctly completed and documenting 35 hours next week he would be in non-compliance. (Exhibit A, pages 156-157) The evidence documents that the January 14, 2014 letter from ■■■ doctor was not provided until January 21, 2014, when no log was provided for the week of January 12, 2014. (Exhibit A, page 156) This was not timely communication of a barrier in light of the January 6, 2014 Re-engagement Agreement and the January 13, 2014 meeting again discussing completing logs and participation requirements. There is no evidence that a log was submitted for the week of January 12, 2014 documenting any hours of participation. Further, ■■■'s assertion that he was unable to participate due to his impairments cannot be found fully credible when To. W's testimony indicated he was participating in self-employment activities at that time.

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 acted in accordance with Department policy when it closed and sanctioned the Claimant's FIP case based on ■■■'s noncompliance with the PATH program requirements.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 21, 2014

Date Mailed: March 21, 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

201427294/CL

CL/hj

cc:

