

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

IN THE MATTER OF:



Reg. No.: 201434131
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: April 29, 2014
County: Barry County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 April 29, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

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?

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 applied for Family Independence Program (FIP) benefits and requested a deferral from the PATH program due to a disability and to care for a disabled child.
2. On October 29, 2013, the Medical Review Team (MRT) determined that the Claimant is not disabled and is a work eligible individual.
3. On November 1, 2013, the Department scheduled the Claimant to attend the PATH program on November 12, 2013.
4. On November 20, 2013, the Department notified the Claimant that she had been noncompliant with the PATH program for failing to participate in the PATH program on November 12, 2013.
5. On December 3, 2013, the Department re-scheduled the Claimant for PATH programming to begin on December 16, 2013.

6. On February 1, 2014, the Department notified the Claimant that she had been re-scheduled for PATH programming to begin on February 10, 2014.
7. On March 3, 2014, the Department notified the Claimant that she was considered noncompliant with the PATH program for failing to attend the February 10, 2014, programming.
8. The Department conducted a triage meeting on March 12, 2014.
9. The Claimant submitted documentation showing that she had medical appointments scheduled for 3:00 p.m. on February 7, 2014, 2:30 p.m. on March 7, 2014, 3:30 p.m. on March 16, 2014, and 3:45 p.m. on February 20, 2014.
10. On March 3, 2014, the Department notified the Claimant that it would sanction her FIP benefits as of April 1, 2014.
11. The Department received the Claimant's request for a hearing on March 27, 2014, protesting the sanctioning of her FIP benefits.

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 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:
 - Appear and participate with PATH or other employment service provider.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity. Department of Human Services Bridges Eligibility Manual (BEM) 233A (July 1, 2013), pp 2-3.

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:

Client Unfit: The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

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.

Reasonable Accommodation: The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

No Child Care: The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- **Appropriate:** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider:.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
- **Affordable:** The child care is provided at the rate of payment or reimbursement offered by DHS. 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 applied for Family Independence Program (FIP) and requested that she be deferred from the PATH program as a condition of receiving FIP benefits. The Claimant was noncompliant with the PATH program when she failed to attend required PATH programming on November 12, 2013, December 16, 2013, and February 10, 2014. The Claimant was noncompliant with the PATH program on March 3, 2014, for excessive absenteeism. The Department conducted a triage meeting on March 12, 2014, 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 held the triage meeting in her absence. The Department allowed the Claimant to submit documents supporting good cause after the triage meeting, but the Department found that no good cause was present. On April 1, 2014, the Department sanctioned the Claimant's Family Independence Program (FIP) benefits and imposed a lifetime sanction.

The Claimant argued that she is not capable of participating in the PATH program due to her disability and because she is required to care for her disabled child.

The Medical Review Team (MRT) determined that the Claimant is a work eligible individual capable of participating in the PATH program and the Claimant did not request any special accommodations so that she could participate more easily.

The Claimant provided documentation of several medical appointments and claimed that these were a barrier to her participation in the PATH program.

This Administrative Law Judge finds that the Claimant's medical appointments might excuse absences from the PATH program on those dates and times, but that these appointments do not support a claim of good cause for her overall noncompliance.

The Claimant argued that caring for her disabled child was a barrier to her participation in the PATH program.

The Department referred the Claimant to apply for Child Development and Care (CDC) benefits and the Claimant failed to establish that appropriate child care was not available for her child's circumstances.

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.

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

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.



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

Date Signed: April 30, 2014

Date Mailed: April 30, 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:

