

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011913
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: December 18, 2014
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 December 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], [REDACTED], and [REDACTED].

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 was an ongoing Family Independence Program (FIP) recipient until August 1, 2014.
2. The Department deferred the Claimant from participation in the Partnership Accountability Training Hope (PATH) program but referred to PATH an adult group member as a condition of receiving FIP benefits.
3. That adult group member was found to be noncompliant with the PATH program for failing to attend her orientation appointment on July 8, 2014.
4. The Department conducted a triage meeting on July 17, 2014.
5. On July 9, 2014, the Department notified the Claimant that it would sanction his FIP benefits as of August 1, 2014.
6. The Department received the Claimant's request for a hearing on September 10, 2014, protesting the sanctioning of his 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.
- Stating orally or in writing a definite intent not to comply with program requirements.
- 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:

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.

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.

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.

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 August 1, 2014. The Department deferred the Claimant's participation in the Partnership Accountability Training Hope (PATH) program due to his physical disabilities. Another adult member of the Claimant's benefit group requested a deferral from participating in the PATH program to provide care for the Claimant, but the Department denied this request. This adult benefit group member failed to attend her orientation appointment on July 8, 2014, and did not reschedule her appointment. The Department conducted a triage meeting on July 17, 2014, where the Claimant was

given the opportunity to establish good cause for noncompliance with the PATH program. No members of the Claimant's benefit group attended the triage meeting and the Department did not find good cause for the noncompliance. On July 9, 2014, the Department notified the Claimant that it would sanction his Family Independence Program (FIP) benefits as of August 1, 2014.

The Claimant testified that he requires in home care due to his disability. The Medical Review Team (MRT) determined that the Claimant is not capable of participating in the PATH program. The Claimant testified that his companion, an adult group member, is able to provide necessary in home care for him, but that providing this care is a barrier to her participation in the PATH program.

A claim of good cause must be verified by evidence. In this case, the Claimant failed to attend the triage meeting and present evidence to establish a good cause barrier to the group member participating in the PATH program.

Despite the lack of evidence presented at the triage meeting, this Administrative Law Judge finds that the Department had sufficient evidence that the Claimant is disabled, and that his companion intended to provide in home care on a full time basis.

The Department's representative testified that if the Claimant was married to his companion that the Department would have deferred her participation in the PATH program.

Department policy allows for the Department to grant a deferral where an otherwise work eligible individual is required to provide care for a disabled spouse or child. The Department may also find good cause for noncompliance with the PATH program where it is necessary to provide such care to a spouse or child. Since the Claimant is not married to his companion, neither of circumstances apply to his case.

Department policy in BEM 230B and 233A makes no distinction between benefit groups like the Claimant's and other groups made up of unrelated roommates. These policies do not allow for a person to be excused from participation in the PATH program to care for person that is not their spouse or child. Whether the Claimant would be eligible for temporary cash assistance based on disability if he did not care for minor children (i.e., State Disability Assistance (SDA)) or whether he would be eligible if his companion were not living in his home are circumstances that are not relevant here. Based on his current circumstances, the Department has determined that his eligibility for cash assistance under current Department policy is contingent upon his companion's active participation in the PATH program.


Whether the objectives of the Family Independence Program (FIP) are furthered by denying cash assistance under these circumstances is not an issue that falls within the jurisdiction of the Michigan Administrative Hearing System (MAHS). Administrative Law Judges have no authority to overrule promulgated regulations or make exceptions to the department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Therefore, this Administrative Law Judge has no alternative but to find that the Department was acting in accordance with policy when it determined that an adult benefit group member was noncompliant with the PATH program without good cause and that the Claimant's Family Independence Program (FIP) benefits should be sanctioned.

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 Corrigan, Director
Department of Human Services

Date Signed: **12/26/2014**

Date Mailed: **12/26/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

