

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005776
Issue No.: 1008, 3001
Case No.: [REDACTED]
Hearing Date: July 31, 2014
County: St. Clair

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 July 31, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], [REDACTED], and the Claimant's attorney [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], [REDACTED], [REDACTED], [REDACTED], and Assistance Attorney General [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 was an ongoing Family Independence Program (FIP) recipient until July 1, 2014.
2. On December 19, 2013, the Department received a Psychiatric/Psychological Examination Report (DHS-49-D) and a Mental Residual Functional Capacity Assessment (DHS-49-E).
3. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.
4. On March 17, 2014, the Department's Medical Review Team (MRT) determined that the Claimant is a work eligible individual and is capable of participating in the PATH program.
5. On April 21, 2014, the Claimant reported car trouble.

6. On April 28, 2014, the Claimant reported domestic issues and that she was trying to get in to a shelter.
7. The Claimant was noncompliant with the PATH program when she failed to provide the Department with verification that she had completed her assignments in April of 2014.
8. The Department conducted a triage meeting on May 5, 2014.
9. On May 13, 2014, the Department notified the Claimant that her Food Assistance Program (FAP) benefits would decrease effective June 1, 2014.
10. The Department conducted a triage meeting on May 20, 2014.
11. On June 11, 2014, the Department notified the Claimant that it would sanction her FIP benefits as of July 1, 2014.
12. The Department received the Claimant's request for a hearing on June 20, 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.
 - 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 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.

Unplanned Event or Factor: Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

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.

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.

In this case, the Claimant was an ongoing Family Independence Program (FIP) recipient until July 1, 2014, 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 failed to provide the Department with verification that she had completed her required assignments for April of 2014. The Department conducted triage meetings on May 5, 2014, and May 20, 2014. The Claimant did not attend either triage meeting. On June 11, 2014, the Department notified the Claimant that it would sanction her Family Independence Program (FIP) benefits as of July 1, 2014.

On December 19, 2013, the Department received a Psychiatric/Psychological Examination Report (DHS-49-D) and a Mental Residual Functional Capacity Assessment (DHS-49-E). These reports contain objective medical evidence that the Claimant has serious symptoms and serious impairments in social and occupational functioning, as well as moderately limited functional abilities.

Case notes from the PATH program indicate that the Claimant's case manager had no choice but to refer her back to the Department for further determination.

The Claimant does not dispute that she failed to complete her required PATH assignments in April of 2014, but argues that the Department was required to defer from participation in the PATH program.

The Medical Review Team (MRT) determined that the Claimant is a work eligible individual and that she is not disabled. No evidence was presented on the record that the Claimant requested any special accommodations that would have allowed her to complete her required PATH assignments. No evidence was presented on the record of a request for a deferral for reasons other than physical/mental impairments.

This Administrative Law Judge finds that the evidence on the record supports a finding that the Department was acting in accordance with policy and did not abuse its discretion when it chose not to defer the Claimant from participation in the PATH program.

The Claimant argued that circumstance beyond her control interfered with her ability to complete her PATH assignments in April of 2014, which is defined as good cause in Department policy.

On April 21, 2014, the Claimant reported car trouble. On April 28, 2014, the Claimant reported domestic issues and that she was trying to get in to a shelter. During the hearing, the Claimant testified about an unstable housing situation and difficulties caring for her children.

A witness for the Department testified that since the Claimant did not attend the triage meeting, a pre-printed triage meeting report was generated and the Claimant was referred to the Department by the PATH agency. The Department's witness testified that no evidence supporting good cause was available for consideration.

This Administrative Law Judge finds that although a deferral from the PATH program was not justifiable, the Department did have available information at its disposal concerning barriers to the Claimant's ability to complete her PATH assignments.

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.

This Administrative Law Judge finds that it was improper for the Department to conclude that since a deferral from the PATH program was not justified, that there were no barriers to her participation in the PATH program. This Administrative Law Judge finds that the Department failed to properly evaluate whether barriers to the Claimant's participation in the PATH program were beyond her control and met the definition of good cause. This Administrative Law Judge finds that the Claimant presented substantial evidence supporting a finding that she did have good cause for her noncompliance with the PATH program. Therefore, the Department was not acting in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) benefits for noncompliance with the PATH program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Partnership. Accountability Training. Hope. (PATH) program.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the negative action from the Claimant's benefits case file.
2. Initiate a determination of the Claimant's eligibility for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits as of June 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



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

Date Signed: **8/8/2014**

Date Mailed: **8/8/2014**

KS/las

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

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cc:

