

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017932
Issue No.: 1008, 6001
Case No.: [REDACTED]
Hearing Date: January 14, 2015
County: JACKSON

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 January 14, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [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) and Child Development and Care (CDC) recipient.
2. The Department referred the Claimant to the Partnership Accountability Training Hope (PATH) program as a condition of receiving FIP benefits.
3. The Claimant was noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program when she failed to submit verification that she had completed her required assignments by October 22, 2014.
4. The Department conducted a triage meeting on November 5, 2014.
5. On October 24, 2014, the Department notified the Claimant that it would sanction her FIP benefits as of December 1, 2014.

6. On November 5, 2014, the Department notified the Claimant that it would close her Child Development and Care (CDC) benefits as of November 30, 2014, for lack of need for child care.
7. The Department received the Claimant's request for a hearing on December 12, 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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:
 - Provide legitimate documentation of work participation.
 - 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:

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.

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 December 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 submit verification that she had completed her required job search assignment by October 22, 2014. The Department conducted a triage meeting on November 5, 2014, where the Claimant was given the opportunity to establish good cause for noncompliance with the PATH program. The Claimant participated in the triage meeting but the Department did not find good cause. On October 24, 2014, the Department notified the Claimant that it would sanction her Family Independence Program (FIP) benefits as of December 1, 2014.

The Claimant testified that she was unable to complete the required amount of job search activity he was assigned by the Partnership. Accountability. Training. Hope. (PATH) program because of a lack of suitable child care.

The Department's representative testified that the Claimant was approved for Child Development and Care (CDC) benefits and child care was available to her.

This Administrative Law Judge finds that the Claimant failed to establish that she was unable to locate suitable child care, and that this was not a barrier to her participation in the Partnership. Accountability. Training. Hope. (PATH) program that was beyond her control.

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.

There are four valid Child Development and Care (CDC) need reasons. Each parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent is unavailable to provide the care because of:

- Family preservation.
- High school completion.
- An approved activity.
- Employment. Department of Human Services Bridges Eligibility Manual (BEM) 703 (November 1, 2014), p 4.

In this case, the Claimant was approved for Child Development and Care (CDC) benefits to allow her to participate in the Partnership. Accountability. Training. Hope. (PATH) program. Upon her separation from the Partnership. Accountability. Training. Hope. (PATH) due to noncompliance with her assigned activities, the Claimant no longer had a verified need for child care. Therefore, on November 5, 2014, the Department notified the Claimant that her Child Development and Care (CDC) benefits would be closed as of November 30, 2014. This Administrative Law Judge finds that the Department closed these benefits in accordance with policy.

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.

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 her Child Development and Care (CDC) benefits.

Accordingly, the Department's decision is **AFFIRMED**. It is SO ORDERED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **1/16/2015**

Date Mailed: **1/16/2015**

KS/sw

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 48909-8139

cc:

