

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14398
Issue No.: 1008; 6002
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 18, 2013, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's mother, testified and appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], PATH Coordinator.

ISSUES

The first issue is whether DHS properly denied Claimant's Child Development and Care (CDC) eligibility due to a failure by Claimant to find a provider.

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) due to Claimant's noncompliance with Partnership. Accountability. Training. Hope. (PATH) participation.

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 an ongoing FIP benefit recipient.
2. Claimant was an ongoing PATH participant.

3. Claimant had a 20 hour/week obligation to attend PATH.
4. Beginning the week of [REDACTED]/13, Claimant stopped participation with PATH.
5. On [REDACTED]/13, Claimant applied for CDC benefits.
6. Claimant failed to select an eligible CDC provider.
7. On [REDACTED]/13, DHS denied Claimant's CDC application due to Claimant's failure to submit documentation concerning a CDC provider.
8. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 12/2013, due to Claimant's noncompliance with PATH participation.
9. On [REDACTED]/13, DHS mailed Claimant a Notice of Non-Compliance scheduling Claimant for a triage appointment to be held on [REDACTED]/13.
10. DHS determined that Claimant had no good cause for her lack of PATH participation.
11. On [REDACTED]/13, Claimant requested a hearing disputing the FIP benefit termination and denial of CDC benefits.

CONCLUSIONS OF LAW

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 contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute the denial of Claimant's CDC application. It was not disputed that DHS denied Claimant's application due to Claimant's failure to submit documentation to DHS that Claimant selected an eligible CDC provider.

To be eligible for CDC payments, a client must use an eligible provider. BEM 703 (7/2013), pp. 13-14. The client is responsible for obtaining any requested verifications

needed to determine CDC eligibility. BEM 702 (7/2013), p. 1. The client is to verify the children in care, the date care began, where care is provided and the provider's relationship to the children with the DHS-4025, Child Care Provider Verification. This form must be signed by both the parent and all provider types (centers, homes, unlicensed). *Id.*, p. 2.

Claimant did not deny failing to submit a DHS-4025. Claimant testified that she does not have a vehicle, has no conveniently located day care center and was unable to find a CDC provider to watch her children. Claimant's testimony would have been more persuasive had it been alleged that she reported her difficulties to DHS; no such allegation was made. It is found that Claimant failed to timely submit a DHS-4025 application to DHS and that DHS properly denied Claimant's CDC application.

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 contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FIP benefit termination to be effective 12/2013. It was not disputed that the basis for the termination was alleged noncompliance by Claimant in PATH participation.

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 230A (1/2013), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.* PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Appear and participate with the work participation program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a FSSP.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.

- Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity.
 - Accept a job referral.
 - Complete a job application.
 - Appear for a job interview (see the exception below).
 - Stating orally or in writing a definite intent not to comply with program requirements.
 - Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/ or self-sufficiency-related activity.
 - Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.
- BEM 233A (1/2013), p. 1-2

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.* 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 period depending on the number of previous non-compliance penalties. *Id.*

It was not disputed that Claimant had a 20 hour per week obligation to attend PATH. DHS alleged that Claimant failed to participate in PATH beginning the week of [REDACTED]/13. DHS also alleged that Claimant's lack of participation continued for the next seven weeks. The DHS allegation was consistent with presented PATH notes (Exhibits 1-3). PATH documentation also indicated that Claimant was already warned on [REDACTED]/13 about her lack of participation. Claimant testified that she was compliant with PATH for 9/2013. Even if Claimant's testimony was accepted, Claimant's four weeks of PATH non-participation in 10/2013 is a sufficient basis for noncompliance.

WEIs will not be terminated from a WPP program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.*, p. 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration. *Id.*, p. 8. In addition, a triage must be held within the negative action period. *Id.* If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id.*

It was not disputed that Claimant failed to attend a triage on [REDACTED]/13. Claimant testified that she was in jail and could not attend. For purposes of this decision, Claimant's testimony will be accepted and Claimant may present evidence of good cause.

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. BEM 233A (5/2012), p 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no childcare, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id*, p. 4. A claim of good cause must be verified. *Id*, p. 3.

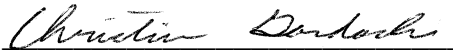
Claimant testified that she was unable to attend PATH for a variety of reasons. Claimant testified that she was unable to attend PATH after changing residences and not being within a walking distance of a PATH worksite. DHS responded that Claimant could have reported any transportation problems and received bus tickets or transportation from PATH. The presented evidence suggested that if Claimant had obstacles, she did not communicate those problems to DHS or PATH. Claimant's failure to communicate her transportation problems to DHS properly results in a finding that Claimant did not have good cause for a lack of transportation.

Claimant also testified that she stopped attending PATH due to a lack of child care for her three children. It was not disputed that Claimant applied for CDC on [REDACTED]/13 and was denied due to a failure to locate a CDC provider. Overall, the evidence tended to establish that Claimant was uncooperative and uncommunicative concerning her PATH obligation. If Claimant had obstacles, there was no persuasive evidence that she reported the obstacles to DHS. Based on the presented evidence, it is found that Claimant did not have good cause for her failure to participate with PATH.

DHS is to close a case 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. BEM 233A (7/2013), p. 1. Based on the presented evidence, it is found that Claimant was noncompliant with PATH participation. Accordingly, it is found that DHS properly imposed a three-month employment-related disqualification and terminated Claimant's FIP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective 12/2013, and imposed a three month disqualification period. It is further found that DHS properly denied Claimant's CDC application dated [REDACTED]/13. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 12/26/2013

Date Mailed: 12/26/2013

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

CG/hw

cc:

