

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201417726
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 16, 2014
County: Wayne P2P

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES. However, the Department representative left the hearing midway through due to technical issues; multiple attempts to re-contact the Department representative were unsuccessful and the hearing continued in their absence.

ISSUE

Did the Department properly close claimant's FIP case and sanction claimant for 3 months for JET noncompliance?

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 FIP recipient in Wayne County, and a PATH participant.
- (2) Claimant missed several required hours with the PATH program during the first week of November 2013.
- (3) Claimant missed the hours due to moving and organizing said move.
- (4) Claimant was also offered employment in November 2013.
- (5) Claimant refused this employment due to the shift offer starting at 3am, with no flexibility in start times.
- (6) Claimant was mailed a DHS-2444 on [REDACTED] 2013.
- (7) On [REDACTED] 2013, the triage was held; claimant attended the triage.
- (8) The Department held, at the triage, that claimant did not have good cause for missing the PATH dates in question and for refusing the job.
- (9) Claimant was deemed noncompliant with the PATH program.
- (10) This was claimant's first incident of noncompliance.
- (11) Claimant's case was pended to close, with a sanction period of 90 days.
- (12) On [REDACTED] 2013, claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless 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 to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “noncompliance”. BEM 233A defines noncompliance as failing or refusing to, without good cause:

“...Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider...” BEM 233A pg. 1.

However, a failure to participate in work related-activities can be overcome if the client has “good cause”. Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the individual. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

“Good cause includes the following...

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....”

The penalty for noncompliance is FIP closure. BEM 233A.

Furthermore, JET participants can not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. BEM 233A.

At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A. Good cause can be verified by information already on file by MWA or DHS.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Good cause is a valid reason for non-participation that is based upon factors beyond the control of the individual. Claimant had car trouble before the required meeting at PATH, which is a circumstance that would fall under the definition of good cause, given that car trouble is not usually of the type of circumstance that is self-inflicted.

The undersigned finds that the Department has proven that claimant was non-participatory. The MIS case notes, Department Exhibit 5, show that claimant missed several required hours and also refused employment, which is non-participation per BEM 233A.

Per the MIS case notes, the dates in question were missed because claimant was moving to a different residence. Claimant was told by the PATH agency on November 8, 2013, that the time would be excused if she provided evidence of the move. However, on November 13, 2013, it came to light that claimant had refused a job offer and was referred to triage without being allowed to give evidence about the move.

At the triage, the Department did not appear to dispute whether claimant had moved; no dispute was raised at the hearing either. However, claimant was not given good cause for her missed dates because claimant only provided evidence of a WIC appointment during some of the missed time. The triage notes do not mention the move, and it appears that claimant was never allowed to present evidence of the move.

As PATH officials stated that claimant’s absences would be excused if evidence was provided for the move, and as it does not appear that claimant was ever allowed to present evidence of the move, and as there is no dispute that claimant changed addresses during the time in question, the undersigned holds that claimant’s commitments to move were a factor that was beyond the control of the claimant, and were a valid reason to miss PATH programs. As such, the Department was in error to refuse claimant good cause for missing the PATH program during the dates in question.

With regard to refusing suitable employment, claimant admits that she did refuse a job during this time period. However, the reason for refusing this job was that claimant was only offered a shift that began at 3am. This testimony was undisputed and the undersigned finds the testimony credible.

Given that claimant has no personal transportation and would need to take a bus to this job, and given that the bus transportation in Detroit, where the job was located, does not begin until 5am, and given the reasonableness of claimant being able to find child care at 3am in the morning, the undersigned finds that claimant had good cause for refusing this employment. More specifically, the employment was not suitable, and was not a job that claimant could reasonably and responsibly accept.

Therefore, as the claimant had good cause for refusing this employment, the Department was in error for finding that the claimant did not have good cause.

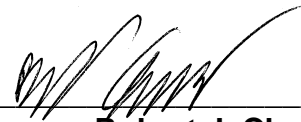
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when . did not act properly when closing claimant's case and applying the sanction in question. Claimant had good cause for her non-participation with work-related activities.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Remove the negative action and sanction in question from the claimant's file, restore all benefits retroactive to the date of negative action, and reschedule claimant for PATH classes.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/27/2014

Date Mailed: 1/27/2014

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

RJC/hw

cc:

