

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-33927
Issue No.: 1008, 3000
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 April 23, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's father). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (PATH Coordinator) and [REDACTED] (PATH Team Leader at Michigan Works).

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case due to Claimant's noncompliance with the Partnership Accountability Training Hope (PATH) program requirements?

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 a FIP recipient and a mandatory PATH participant.
2. On March 20, 2014, the Michigan Works (MW) staff reviewed Claimant's 10 job search application from March, 2014 and then contacted the prospective employers listed on the applications.
3. The MW was unable to verify Claimant's applications due to incorrect and/or disconnected telephone numbers, employers who indicated that no application was on file for Claimant and employers who stated that they only accept online applications.

4. On March 21, 2014, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) because she allegedly falsified her job search applications. The Triage appointment was scheduled for March 27, 2014.
5. On March 27, 2014, Claimant attended Triage and stated that she could not explain the discrepancies in her applications and the information from MW after they contacted the putative employers. Claimant, at that point, requested a deferral due to the death of her fiancé. The Department found Claimant did not show good cause.
6. The Department mailed Claimant a Notice of Case Action (DHS-1605) on March 21, 2014 which imposed a 3 month FIP penalty and closed Claimant's FIP case effective May 1, 2014 through July 31, 2014.
7. Claimant submitted a hearing request on March 28, 2014 protesting the closure of her FIP benefits.
8. The Department contends that the instant matter is Claimant's first non-compliance with the PATH program.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Effective January 1, 2013, as a condition of eligibility, FIP applicants must attend the Partnership Accountability Training Hope (PATH) program and maintain 21 days' attendance. BEM 229. The program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. BEM 229.

A Work Eligible Individual (WEI) and non-WEI¹, who fails to participate in employment or self-sufficiency-related activities without good cause, must be penalized. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure 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. The goal of the FIP penalty policy is to obtain

¹ Except ineligible grantees, clients deferred for lack of child care, and disqualified aliens. See BEM 228.

client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. BEM 233A. The goal is to bring the client into compliance. BEM 233A.

Mandatory PATH clients are referred to PATH upon application for FIP, when a client's reason for deferral ends, or a member add is requested. BEM 229. The Department will not send any others to PATH at application, unless a deferred client volunteers to participate. BEM 229. All PATH referrals are sent by Bridges. BEM 229.

When assigned, clients must engage in and comply with all PATH assignments while the FIP application is pending. BEM 229. PATH engagement is a condition of FIP eligibility. BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229. Bridges automatically denies FIP benefits for noncompliance while the application is pending. BEM 229. Bridges will not penalize Food Assistance when a client fails to attend PATH as a condition of eligibility when the noncompliant individual is not active FIP on the date of the noncompliance. BEM 229. Clients must be active FIP and FAP on the date of FIP noncompliance to apply a FIP penalty to the FAP case. BEM 229.

Generally speaking, federal and state laws require each work eligible individual (WEI) in the FIP and Refugee Assistance Program (RAP) group to participate in the PATH Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment. BEM 230A. WEIs not referred to the work participation program will participate in other activities to overcome barriers so they may eventually be referred to the work participation program or other employment service provider. BEM 230A. 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.

An applicant, recipient or a member add is noncompliant if he or she, without good cause, fails or refuses to do any of the following: (1) appear and participate with the JET Program or other employment service provider; (2) complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process; (3) develop a FSSP or a Personal Responsibility Plan and Family Contract (PRPFC); (4) comply with activities assigned to on the FSSP; (5) **provide legitimate documentation of work participation**; (6) appear for a scheduled appointment or meeting related to assigned activities; (7) participate in employment and/or self-sufficiency-related activities; (8) accept a job referral; (9) complete a job application; (10) appear for a job interview.² BEM 233A.

² The Department will not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. BEM 233A.

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A. 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.

The penalty for noncompliance without good cause is FIP closure. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure 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.

The sanction period begins with the first pay period of a month. BEM 233A. Penalties are automatically calculated by the entry of noncompliance without good cause in the Department's computer system known as Bridges. This applies to active FIP cases, including those with a member add who is a WEI work participation program participant. BEM 233A.

Here, the Department contends that Claimant's 10 job applications in March, 2014 were fraudulent. Claimant, on the other hand, contends that she suffers from mental illness (bipolar disorder) and/or that she accidentally provided the Department with the wrong job search applications from the wrong time period. Claimant then admitted that she did not visit the businesses listed on her applications but that the set of job applications were a list of places that she planned to visit and submit applications in the future.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Outside Job Search Contact Logs clearly indicated that Claimant reportedly applied for several jobs between March 9, 2014 and March 15, 2014. These logs show that Claimant, on March 13th, visited 7 businesses and "dropped off" a resume and application. The March 14th log indicated that Claimant visited three businesses and dropped off a resume and application. Claimant on each log entry noted

that she spent 60 minutes. No reasonable person would believe that these logs were genuine. The Administrative Law Judge does not find Claimant's testimony to be credible. Claimant's mental condition and her claim that she submitted a set of 10 job search applications from the wrong week would not explain the obvious discrepancies in the job search reports. The Department's None of Claimant's explanations are consistent with the documentation in the record. Claimant did not show good cause for her noncompliance with PATH.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds Claimant was noncompliant the PATH program and has failed to show good cause for falsifying her applications. As a result, the Department properly closed Claimant's FIP case for non-compliance.

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 Claimant's FIP case due to noncompliance with the PATH program.

Claimant also requested a hearing concerning Food Assistance Program (FAP) benefits. At the time of Claimant's hearing request, the Department had not taken any action to suspend, reduce, discontinue or terminate Claimant's FAP benefits. Shortly after commencement of the hearing, Claimant testified that she did not intend to request a hearing concerning FAP and did not wish to proceed with the hearing. Therefore, Claimant withdrew the Request for Hearing in this matter. The Department agreed to the dismissal of the hearing request.

DECISION AND ORDER

Accordingly, the Administrative Law Judge decides that the Department properly closed Claimant's FIP case for noncompliance with PATH requirements and the 3 (three) month sanction is **AFFIRMED**.

Pursuant to the withdrawal of the hearing request concerning FAP in this matter, the FAP Request for Hearing is, hereby, **DISMISSED**.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 25, 2014

Date Mailed: April 25, 2014

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

CAP/las

cc:

