

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8075
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Wayne (55)

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 January 15, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) to 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 recipient.
3. On [REDACTED]/13, Claimant ceased attending PATH.
4. On an unspecified date, Claimant reported to PATH that she began employment.
5. PATH informed Claimant to return proof of her employment by [REDACTED]/13.

6. Claimant failed to return proof of employment to PATH by 7/29/13.
7. On [REDACTED]/13, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Case Action (see Exhibits 1-5) initiating termination of FIP benefit eligibility, effective 9/2013, due to Claimant's noncompliance with PATH participation.
8. On [REDACTED]/13, DHS mailed Claimant a Notice of Noncompliance (Exhibits 6-7) informing Claimant of a triage to be scheduled on [REDACTED]/13.
9. On [REDACTED]/13, Claimant attended the triage and was informed by DHS to return verification of employment to DHS by [REDACTED]/13.
10. On [REDACTED]/13, Claimant submitted an employment verification to DHS.
11. DHS allowed Claimant's FIP eligibility to terminate
12. On [REDACTED]/13, Claimant requested a hearing disputing the FIP benefit termination.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FIP benefit termination. It was not disputed that DHS terminated Claimant's FIP eligibility due to alleged noncompliance by Claimant with 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.*

DHS alleged that Claimant was noncompliant with PATH participation obligations. The noncompliance was partially based on an alleged failure by Claimant to wear clothing appropriate for PATH. The work clothing allegation was unsupported and is not deemed to be a valid basis of PATH noncompliance.

DHS presented testimony contending that Claimant's noncompliance began when Claimant failed to appear for PATH on [REDACTED]/13. DHS acknowledged that Claimant reported the commencement of employment as an excuse for her absence. DHS alleged that Claimant was noncompliant with PATH participation by subsequently failing to verify employment. It was not disputed that Claimant was only given one business day to return documentation of her employment before noncompliance was found. The one business day turnaround expectation seemed unreasonable though DHS extended the deadline for Claimant until [REDACTED]/13. The extension of time was a reasonable time for Claimant to verify employment. Thus, Claimant's alleged failure to verify employment is an acceptable basis for noncompliance.

Claimant responded that she submitted verification of employment to DHS on [REDACTED]/13. Claimant's testimony noted that she approached the DHS office front desk, completed a form that DHS required for the submission and that she unsuccessfully waited 30 minutes to speak with a DHS representative before leaving the office. Claimant's testimony, by itself, was detailed and credible.

Claimant's testimony was not verified. Claimant could have presented a copy of the document that she allegedly submitted to DHS on [REDACTED]/13. Claimant testified that she did not think to make a copy. Claimant's testimony was slightly inconsistent with her actions when she submitted a hearing request to DHS. Claimant brought a copy of her Request for Hearing to the hearing which she also had date stamped by the DHS office. Claimant's failure to prove her submission lessened her credibility.

Claimant's testimony should have been verifiable by DHS. The testifying DHS specialist conceded that DHS requires clients to complete a form before documents handed in-person can be accepted. DHS should have a system in place to verify whether Claimant submitted a verification of employment on [REDACTED]/13. The testifying DHS specialist conceded that there was no way to verify whether Claimant made such a submission.

The failure by DHS to have a system that can verify a client document submission is more inexcusable than Claimant's failure to verify her submission. DHS also did not have Claimant's case file available for the hearing. If DHS brought the case file, it could have been checked to see if it contained Claimant's alleged employment verification submission.

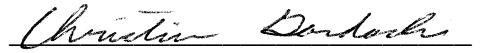
Based on the presented evidence, it is found that Claimant submitted a verification of employment to DHS on [REDACTED]/12. It is further found that Claimant was compliant with PATH participation by verifying her employment within the DHS imposed timeframe and that the termination of Claimant's FIP eligibility was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FIP eligibility, effective 9/2013, subject to the finding that Claimant was compliant with PATH participation and that Claimant timely submitting proof of her employment to DHS;
- (2) supplement Claimant for any FIP benefits improperly not issued; and
- (3) remove any relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are **REVERSED**.


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

Date Signed: January 24, 2014

Date Mailed: January 24, 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

CG/tlf

cc: 