

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012473
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 5, 2015
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, an in-person hearing was held on January 5, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED]

appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED] PATH Coordinator, and [REDACTED], DHS Liaison for [REDACTED].

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) due to Claimant's alleged 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 30 hour per week obligation to attend PATH.
4. Claimant's PATH participation fell below 30 hours per week across a multiple week period.

5. On [REDACTED], DHS initiated termination of Claimant's FIP eligibility, effective 9/2014, and imposed a pending employment-related disqualification against Claimant (see Exhibits 1-4).
6. Claimant informed DHS that she had good cause for not attending PATH due to mental health problems and because she was scheduled for less than 30 hours per week by her community service supervisor.
7. On [REDACTED], a triage was held and DHS determined that Claimant lacked good cause for not attending PATH.
8. DHS allowed Claimant's pending FIP termination and employment-related sanction to be imposed.
9. On [REDACTED], Claimant requested a hearing to dispute the FIP termination and employment-related sanction.

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. 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. It was not disputed that DHS terminated Claimant's FIP eligibility due to alleged noncompliance by Claimant with PATH participation.

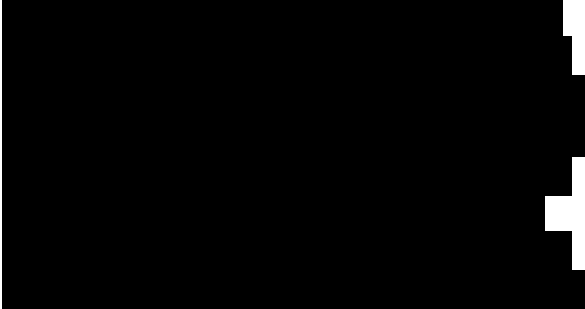
Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (10/2013), 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 (7/2013), pp. 2-3.

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.*, p. 1. 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 her PATH participation obligations. Claimant's PATH attendance was not disputed. Claimant's attended PATH as follows:

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It was not disputed that Claimant had a 30 hour/week obligation to participate with PATH. Claimant's PATH participation fell short of her required hours. It is found that DHS established a basis to impose noncompliance penalties against Claimant.

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. 9. On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. *Id.*, p. 10. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment and/or Self Sufficiency Related Noncompliance, which is sent to the client. *Id.*, pp. 10-11. The following information will be populated on the DHS-2444: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration. *Id.*, p. 11. DHS is to determine good cause during triage and prior to the negative action effective date. *Id.*

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. *Id.*, p. 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.*, pp. 3-6. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. *Id.*, p. 11. If the client establishes good cause within the negative action period, DHS is to reinstate benefits. *Id.*, p. 13.

Claimant alleged good cause, in part, based on a misunderstanding of her PATH obligation. Before an analysis is undertaken, some background information of Claimant's specific PATH obligation is appropriate.

As of 7/2014, Claimant was scheduled to fulfill her PATH requirements by performing community service with a non-profit agency. During the hearing, the supervisor at Claimant's assigned non-profit agency provided testimony. Claimant's supervisor testified that she scheduled Claimant for 22.5 hours per week of work because that was the amount of hours requested by Claimant's PATH agency. PATH representatives responded that it was expected that Claimant perform 30 hours per week of community service. The non-profit supervisor conceded (in her testimony) that she likely erred in only scheduling Claimant for 22.5 hours per week instead of 30 hours.

DHS contended that Claimant should have known to report to PATH to make up any hours less than 30 that Claimant did not fulfill by her community service. The DHS contention was mildly persuasive. It was more persuasive that Claimant attended most of her scheduled community service hours and may have had a realistic belief that she needed to only attend whatever hours were scheduled for her. This consideration

supports finding that Claimant had good cause for weeks when she only attended community service for 22.5 hours per week.

Even if Claimant is excused from missing 7.5 hours per week from PATH, Claimant still had several weeks where she attended PATH for less than 22.5 hours. Claimant testified that depression symptoms prevented her full attendance.

Claimant presented two letters (Exhibits A1-A3) from a treating clinical therapist. The letters indicated that Claimant has a history of depression and related symptoms. Claimant's therapist noted that Claimant's symptoms appeared to worsen in 5/2014 which may have contributed to an anger outburst by Claimant during her community service time. It was also noted that Claimant had difficulties with reading and math.

The presented letters tended to verify that Claimant might have depression symptoms which would create difficulties in attending PATH. The letters were not compelling evidence that Claimant is disabled and should not be expected to attend PATH. The letters were sufficient to justify excusing Claimant from PATH participation for some days over 7/2014 and 8/2014. Over 8 weeks, Claimant missed 5 days (assuming that Claimant was scheduled for 7.5 hour days). Absences of 5 days across 8 weeks are found to be a reasonable number of absences, given Claimant's depression symptoms.

Consideration was given to ignoring Claimant's therapist's letters because Claimant failed to present the letters to DHS by the triage date or before FIP termination. This consideration was rejected due to the general difficulties that patients have in obtaining documentation from medical treaters.

Based on the presented evidence, it is found that Claimant established good cause for her absences from PATH. Accordingly, it is found that DHS improperly 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 improperly terminated Claimant's FIP benefit eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FIP benefit eligibility, effective 9/2014, subject to the finding that Claimant was compliant with PATH participation due to good cause;
- (2) supplement any benefits that were not issued as a result of the improper finding of noncompliance; and
- (3) remove any relevant employment-related disqualification from Claimant's disqualification history.

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



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/14/2015**

Date Mailed: **1/14/2015**

CG / hw

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:

