

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

IN THE MATTER OF:



Reg. No.: 14-014100
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]

[REDACTED] appeared as Claimant's authorized hearing representative (AHR) and legal counsel. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], PATH coordinator, and [REDACTED] specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) eligibility due to alleged non-compliance with employment-related activities.

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 alleged that she was disabled and medically incapable of attending Partnership. Accountability. Training. Hope. (PATH) activities.
3. DHS determined that Claimant was medically capable of attending PATH activities.

4. On an unspecified date, DHS determined that Claimant was non-compliant with PATH activities and imposed a first employment-related sanction against Claimant.
5. On an unspecified date, Claimant requested a hearing.
6. On an unspecified date, an administrative law judge affirmed that DHS properly imposed a first FIP sanction against Claimant.
7. Claimant again became an ongoing FIP recipient.
8. Claimant again alleged that she was disabled and medically incapable of attending Partnership. Accountability. Training. Hope. (PATH) activities.
9. On an unspecified date, DHS determined that Claimant was non-compliant with PATH activities and imposed a second sanction against Claimant.
10. On an unspecified date, DHS terminated Claimant's FIP eligibility, effective 11/2014, due to Claimant's alleged non-compliance with PATH participation.
11. On an unspecified date, DHS imposed an employment sanction penalty against Claimant, effective 12/2014, due to Claimant's alleged PATH participation non-compliance.
12. On [REDACTED], Claimant requested a hearing to dispute the FIP benefit termination.
13. On [REDACTED], Claimant was found by Social Security Administration to be disabled since 1/2013.

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 termination of FIP benefits. It was not disputed that DHS terminated Claimant's FIP eligibility due to Claimant's failure to comply 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.*

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. *Id.*, p. 12. Evaluation of disability is a 3 step process. *Id.* The three steps are establishing a disability, defining the disability, and referring to the Medical Review Team (MRT) (see *Id.*, pp. 12-13).

The purpose of MRT referral is for DHS to evaluate a client's claim of disability. Persons who are not found to be disabled are referred to PATH participation. Persons found to be disabled continue in PATH deferral status.

It was not disputed that Claimant alleged to be a disabled individual who should have been deferred from PATH participation. It was not disputed that MRT found Claimant to be work ready and denied Claimant's request for medical deferral from PATH. As it happened, in 12/2014, SSA found Claimant to be disabled since 1/2013.

DHS conceded that the federal determination of disability trumped the MRT finding of non-disability. As a result, DHS conceded that Claimant should have been deferred from PATH participation. DHS further conceded that a second sanction for noncompliance with PATH participation should not have been imposed because of Claimant's now-verified disability status. DHS also conceded that the termination of Claimant's FIP eligibility was erroneous.

The above DHS concessions were consistent with DHS policy and presented facts. It is found that DHS improperly terminated Claimant's FIP eligibility, effective 12/2014.

Claimant's AHR also sought reversal of the first sanction imposed by DHS against Claimant. The months of the sanction were not identified. Claimant alleged that the sanction and termination occurred after 1/2013, the disability onset month found by SSA. Claimant's AHR contended that the same analysis reversing the FIP benefit termination beginning 12/2014 should apply to the earlier imposed sanction and termination.

It was not disputed that Claimant previously requested a hearing concerning the first FIP sanction and FIP termination. Claimant conceded that an administrative law judge affirmed the sanction. Principles of res judicata prevent the first FIP sanction being subject to administrative review for a second time.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (10/2014), p. 6. Claimant's testimony was highly suggestive that the first FIP termination occurred more than 90 days before Claimant's hearing request submission dated 10/8/14. Thus, Claimant is barred by timeliness from having the first sanction reviewed by hearing decision.

It is appreciated that Claimant may have unjustly suffered a FIP benefit interruption because of MRT and/or administrative judicial error. This appreciation does not justify creating jurisdiction for an untimely disputed issue already resolved by the administrative hearings process. It is found that Claimant failed to establish administrative hearing jurisdiction to reverse a first FIP sanction and benefit termination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish jurisdictional basis for administrative review of a first FIP benefit sanction with an unspecified FIP termination month. Claimant's hearing request is **PARTIALLY DISMISSED**.

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) reinstate Claimant's FIP eligibility, effective 12/2014, subject to the finding that Claimant should have been deferred from PATH participation due to a long-term disability; and
- (2) remove a second employment-related sanction 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: **1/8/2015**

Date Mailed: **1/8/2015**

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:

