

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018127
Issue No.: 1001
Case No.: [REDACTED]
Hearing Date: January 28, 2015
County: Oscoda

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong (for ALJ William Sundquist)

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 3-way telephone hearing was held on January 28, 2014, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED], FIM [REDACTED] [REDACTED] PATH coordinator [REDACTED], FIP Manager [REDACTED], MI WORKS Resource Specialist [REDACTED], and PATH coordinator for Claire County [REDACTED]. Although ALJ William Sundquist presided over the hearing in this matter, the undersigned ALJ has reviewed the entire hearing record including the digital audio recording(s), all documents and admitted exhibits in this hearing, generates the instant Hearing Decision in the absence of the presiding ALJ.

ISSUE

Whether the Department properly terminated and sanctioned Claimant's Family Independence Program (FIP) benefits for noncompliance with 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 mandatory Partnership. Accountability Training. Hope. (PATH) program participant.
2. On October 2, 2014, the Department mailed Claimant a Notice of Noncompliance, informing her that records show for at least the third time, she had refused or failed to participate as required in employment, and a triage was scheduled for October 14, 2014, at 1:30 PM.
3. On October 14, 2014, Claimant called and a telephone Triage was held. No good cause was found.

4. Claimant submitted a hearing request on December 23, 2014, protesting the closure of her FIP case.
5. This is Claimant's third non-compliance with the FIP program.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The Department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. BEM 229, p 1 (7/1/13).

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 activities unless temporarily 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 obtain employment. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. BEM 230A, p 1 (1/1/15).

A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p 1 (1/1/15).

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:

- Failing or refusing to:
 - Appear and participate with PATH 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.

Note: The specialist should clear any alerts in Bridges relating to rejected PATH referrals and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

- Develop a FSSP.

Note: A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.

- 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.
- 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 pp 2-3 (10/1/14).

Refusing suitable employment means doing any of the following:

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job.
- Firing for misconduct or absenteeism (not for incompetence). BEM 233A, p 3 (10/1/14).
- Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

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 during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral. BEM 233A, p 4 (10/1/14).

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 PATH. 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, pp 9-10, 10/1/14.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- . For the first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- . For the second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- . For the third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction.

The individual penalty counter also begins April 1, 2007. Individual penalties served after October 1, 2011, will be added to the individual's existing penalty count. BEM 233A, p 8 (10/1/14).

Non-compliance with the PATH program includes, failing or refusing to appear and participate with PATH or other employment service provider. BEM 233A.

The Department representative testified that Claimant failed to call in or report to her mandatory workshops on 10/1/2014 and 10/2/2014, and as a result was placed in Triage. Claimant agreed that she did not call in or report to the workshops. Claimant testified that she was not living in a good situation, and her bus tickets had been stolen so she could not report to the workshops. The Department stated that Claimant had not informed the Department of the stolen bus tokens during the telephone Triage on 10/14/2014. The Department added that they had offered Claimant additional bus tokens but Claimant had refused, stating that she had a ride.

According to policy, Claimant is required to participate in employment. Noncompliance is also defined as failing to refusing to appear for a scheduled appointment or meeting related to assigned activities.

In this case, Claimant admitted that she did not call in and failed to report to the scheduled workshops on 10/1/2014 and 10/2/14.

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 during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral. BEM 233A, p 4 (10/1/14). Good cause includes no transportation. The client must request transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation was not available to the client.

Claimant testified that she did not notify attend the workshops because her bus tickets had been stolen by the woman she was living with. Claimant did not explain why she failed to call into Michigan Works when she failed to attend on those days. Moreover, Claimant did not mention that her bus tickets had been stolen during the Triage.

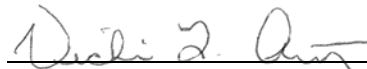
As a result, Claimant failed to provide the necessary evidence that she had a good cause for failing to attend the workshops on 10/1/2014 and 10/2/2014. Claimant signed the Work and/or Self-Sufficiency Rules for Cash Recipients on 9/29/14, acknowledging she understood she was to notify her DHS specialist or PATH case manager the same day or as soon as she was able of the good cause reason that makes it difficult for her to work. Claimant failed to notify the Department and/or PATH concerning her transportation issues, in accord with policy.

Therefore, based on the material and substantial evidence presented during the hearing, Claimant failed to show good cause for failing to show for the workshops and the Department properly closed Claimant's FIP case for non-compliance.

The Administrative Law Judge finds the Department acted in accordance with Department policy when it closed Claimant's FIP case for failing to participate in employment services.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/23/2015**

Date Mailed: **2/23/2015**

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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:

