

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018824
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: January 29, 2015
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong (for ALJ William A. 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 telephone hearing was held on January 29, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED], Eligibility Specialist [REDACTED] and PATH Worker [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 August 12, 2014, Claimant submitted a Volunteer Service/Work Experience Verification Form indicating she would be working 20 hours a week beginning 8/13/2014, at Center Medical Supply, filing, cleaning and answering phones.
3. Claimant submitted activity logs for the week of 8/10/2014 through 8/16/2014, showing 8 hours on 8/13/2014 and 8/14/2014, and 4 hours on 8/15/2014, for a total of 20 hours.

4. Claimant submitted activity logs for the week of 8/17/2014 and 8/23/2014, showing 8 hours on 8/18/2014 and 8/19/2014, and 4 hours on 8/20/2014, totaling 20 hours.
5. On October 28, 2014, Volunteer Service Contact Worker Coordinator for Michigan Works, completed a site visit at [REDACTED]. The coordinator was informed that they do not have volunteers and that Claimant was not working for the [REDACTED].
6. On October 28, 2014, the Department mailed Claimant a Notice of Noncompliance with a Triage date of 11/6/2014 at 9:00 AM. A Notice of Case Action was also mailed to Claimant informing her that her FIP would close effective 12/1/2014, because she failed to participate in employment and/or self-sufficiency related activities. Claimant's FAP would also be decreased from \$ [REDACTED] to \$ [REDACTED] from 12/1/2014 through 6/30/2015, because she voluntarily failed to participate in a FAP related activity requirement.
7. On October 28, 2014, the Department mailed Claimant a Notice of Noncompliance, informing her that records show she had refused or failed to participate as required in employment, and a triage was scheduled for November 6, 2014, at 9:00 AM.
8. Claimant failed to call or attend Triage on 11/6/2014.
9. Claimant submitted a hearing request on December 15, 2014, protesting the closure of her FIP case.
10. 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).

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for a client who refuses to participate in FIP/RCA employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause. BEM 233B, p 1 (7/1/2013).

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance; see BEM 233A. BEM 233B, p 1 (7/1/2013).

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations when a Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause, or a Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause. At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B, p 1 (7/1/2013).

The Department disqualifies a FAP group member for noncompliance when all the following exist:

- The client was **active** both FIP/RCA and FAP on the date of the FIP/RCA noncompliance, **and**
- The client did **not** comply with FIP/RCA employment requirements, **and**
- The client is subject to a penalty on the FIP/RCA program, **and**
- The client is **not** deferred from FAP work requirements (see DEFERRALS in BEM 230B), **and**
- The client did not have good cause for the noncompliance. BEM 233B, p 3 (7/1/2013).

Non-compliance with the PATH program includes, failing or refusing to appear and participate with PATH or other employment service provider. BEM 233A. In this case, Claimant submitted a Volunteer Service/Work Experience Verification Form on August 12, 2014, indicating she would be working 20 hours a week at [REDACTED] beginning August 13, 2014. Claimant submitted Activity Logs for the weeks of August 10, 2014 – August 16, 2014, and August 17, 2014 – August 23, 2014, indicating she had worked 20 hours each week and an additional Activity Log for the week of August 31, 2014 – September 6, 2014, showing she had worked 8 hours.

On October 28, 2014, the volunteer PATH Coordinator made an on-site visit to [REDACTED]. The coordinator at [REDACTED] indicated they did not use volunteers and Claimant was not working there. PATH was also informed that the “supervisor” Claimant had listed on her Volunteer Service/Work Experience Verification Form was a Customer Service Representative for the company.

PATH contacted the Customer Service Representative that Claimant had listed on her Volunteer Service/Work Experience Verification Form as her “supervisor.” The Customer Service Representative informed PATH that Claimant was helping her from her home.

Claimant admitted during this hearing that she was “not doing the work on the form, but was cleaning up outside the building.” However, the “supervisor” Claimant listed on her Volunteer Service/Work Experience Verification Form was in fact only a Customer Service Representative and the Customer Service Representative told PATH that Claimant was helping her out at her home. Therefore, due to the inconsistencies and contradictions in testimony, this Administrative Law Judge finds Claimant’s testimony is not credible.

According to policy, Claimant is required to participate in employment. Noncompliance is also defined as failing or refusing to provide legitimate documentation of work participation.

In this case, Claimant submitted a fraudulent Volunteer Service/Work Experience Verification Form, listing a Customer Service Representative as her “supervisor” and her duties of cleaning, filing and answering telephones at [REDACTED] which she never completed

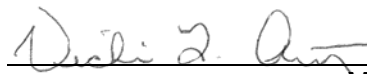
Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. If it is determined during 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).

Claimant failed to provide the necessary evidence that she did not submit a fraudulent Volunteer Service/Work Experience Verification Form. Claimant signed the Work and/or Self-Sufficiency Rules for Cash Recipients on 7/21/14, acknowledging she understood that any documents found to be falsified in any manner will result in automatic triage and possible sanction of her FIP grant, in accord with policy.

Therefore, based on the material and substantial evidence presented during the hearing, Claimant failed to show good cause for submitting a fraudulent Volunteer Service/Work Experience Form and the Department properly closed Claimant's FIP case and decreased Claimant's FAP case for non-compliance.

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:

