

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002122
Issue No.: 1008, 3000
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: Wayne (18)

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 April 15, 2015 from Taylor, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's boyfriend, testified on behalf of Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], PATH coordinator, [REDACTED], specialist, [REDACTED], hearing facilitator, [REDACTED], DHHS coordinator for Michigan Works! Agency (MWA), and [REDACTED], career development facilitator.

ISSUES

The first issue is whether DHHS took any adverse action to Claimant's Food Assistance Program (FAP) eligibility.

The second issue is whether DHHS properly terminated Claimant's Family Independence Program (FIP) eligibility due to employment loss caused by Claimant's absenteeism.

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. On an unspecified date, Claimant began employment which met her employment-related requirements.

3. On an unspecified date in September 2014, Claimant's employer fired Claimant from her job due to absenteeism
4. On [REDACTED], DHHS imposed an employment-related disqualification against Claimant and issued a Notice of Case Action (Exhibits 1-2) initiating a termination of Claimant's FIP eligibility, effective March 2015, due to Claimant's job loss.
5. On [REDACTED], DHHS mailed a Notice of Noncompliance (Exhibits 3-4) scheduling Claimant for a triage dated [REDACTED].
6. On [REDACTED], DHHS determined that Claimant did not have good cause for her employment termination.
7. On [REDACTED], Claimant requested a hearing to dispute the employment-related disqualification as it pertains to her FIP and FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. DHHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. DHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, due to a FAP benefit reduction. DHHS responded that no adverse action was taken to Claimant's FAP eligibility. During the hearing, Claimant was asked what notice she received threatening a FAP benefit reduction. Claimant conceded that she did not receive a notice of FAP benefit reduction and further conceded that she has no reason to dispute her FAP eligibility. Because DHHS did not take any adverse action concerning Claimant's FAP eligibility, Claimant's hearing request will be dismissed for this issue.

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. DHHS (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. DHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant primarily requested a hearing to dispute a FIP benefit termination, effective March 2015. It was not disputed that DHHS terminated Claimant's FIP eligibility because due to Claimant's noncompliance with employment-related activities.

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 (1/2015), 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. BEM 233A (10/2014), p. 2. Noncompliance of applicants, recipients, or member adds means failing or refusing to do any of the following without good cause (see *Id.*, pp. 2-3):

- 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.

Refusing suitable employment includes being fired for misconduct or absenteeism (see *Id.*, p. 3). Misconduct sufficient to warrant firing includes any action by an employee or other adult group member that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. *Id.*

During the hearing, the testifying DHHS coordinator with MWA testified that he determined that Claimant was noncompliant with her employment-related activities. He also testified that the decision was exclusively based on Claimant's reporting that she lost her job due to absenteeism. Claimant reported to DHHS that she was fired for being "unreliable" as it pertains to absenteeism. A client's statement concerning employment termination is not necessarily reliable. It is possible that Claimant misstated or misunderstood the reasoning for her firing. Though it is possible that Claimant misunderstood why she was fired, it is improbable that she did. The undisputed reason for Claimant's employment termination was sufficient to establish a basis for noncompliance. It is found that DHHS properly initially determined Claimant to be noncompliant with employment-related activities.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.*, p. 9. DHHS is to determine good cause based on the best information available during the triage and prior to the negative action date. *Id.* Clients must comply with triage requirements and provide good cause verification within the negative action period. *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. 4. 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. 4-6. If the client establishes good cause within the negative action period, DHHS is to reinstate benefits. *Id.*, p. 13.

DHHS provided no specifics of Claimant's missed dates and/or times. A DHHS Coordinator with MWA testified that it was their policy not to contact employers for "up to 6 months while the client is employed." The failure by DHHS to provide specifics of Claimant's absenteeism could be problematic to affirming the finding of noncompliance. Claimant's presentation of good cause may hinge on knowing which dates and/or times that she allegedly missed. Claimant's good cause will be analyzed in this context.

Claimant testified that she missed work, in part, due to a lack of child care. DHHS responded that Claimant shouldn't need child care because she lives with her children's father. It was not disputed that Claimant lived with her children's father (also Claimant's current boyfriend) and that he does not work.

Claimant's boyfriend stated he was disabled but attended classes and obtained his high school equivalency degree during Claimant's time of employment. Claimant testified that Claimant's spouse signed up for school in January 2015. When it was pointed out that school attendance beginning January 2015 could not have impacted Claimant's loss of employment from September 2014, Claimant's boyfriend then took several seconds before testifying that he thinks he started school in September 2014.

Claimant's and her boyfriend's testimony was not very credible. More importantly, it was unverified. It also was not established how Claimant's boyfriend's school attendance impacted Claimant ability to attend her part-time job.

It is found that Claimant failed to establish good cause due to lack of child care. Claimant also alleged good cause related to mental fitness.

Claimant presented a letter dated [REDACTED] (Exhibit A1) from a treating psychiatrist. The letter stated that Claimant required psychiatric treatment and medication to stabilize her mood and enhance her ability to cope and function. Difficulty with racing thoughts and concentration were noted. Claimant's capacity to participate with PATH was noted to be "problematic at this time." Claimant's letter had several problems in establishing good cause.

Claimant's psychiatrist's letter was dated several months before Claimant's job termination. Several months is an uncomfortably long period before Claimant's job loss to justify finding that mental health affected Claimant's attendance.

Claimant's psychiatrist letter was not littered with details. A diagnosis was not provided. Specific medications were not verified as prescribed. A medical history was not described. A summary of symptoms and a psychiatric opinion, by themselves, are not compelling evidence that Claimant had good cause for her work absenteeism. Based on the presented evidence, it is found that Claimant failed to establish good cause for her work absenteeism.

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.*

Based on the presented facts, it is found that DHHS established that Claimant was noncompliant with employment-related activities. Accordingly, it is found that DHHS properly 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 DHHS did not take any adverse action to Claimant's FAP eligibility. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly terminated Claimant's FIP eligibility, effective 3/2015,

due to employment-related activity noncompliance. The actions taken by DHHS are **AFFIRMED**.



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

Date Signed: **4/21/2015**

Date Mailed: **4/21/2015**

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

