

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

IN THE MATTER OF:

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Reg. No.: 15-009475
Issue No.: 1008 3007
Case No.: ██████████
Hearing Date: July 15, 2015
County: Wayne (17)

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 July 15, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator, and ██████████ specialist.

ISSUES

The first issue is whether DHHS properly imposed an employment-related activity disqualification resulting in the termination of Claimant's Family Independence Program eligibility due to Claimant's noncompliance with Partnership. Accountability. Training. Hope. (PATH) participation.

The second issue is whether MDHHS properly reduced Claimant's Food Assistance Program (FAP) eligibility due to an employment-related disqualification.

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 who was medically deferred from PATH participation.
2. On an unspecified date, the Medical Review Team (MRT) determined that Claimant could participate with PATH, though with some limitations.

3. On June 2, 2015, DHHS mailed Claimant notice of a PATH appointment scheduled for an unspecified date.
4. On an unspecified date, Claimant attended a PATH orientation appointment, but left after 30-40 minutes.
5. Claimant did not return to PATH.
6. Claimant had good cause for her PATH absence due to an injury.
7. On June 8, 2015, MDHHS imposed an employment disqualification against Claimant and mailed a Notice of Case Action (Exhibits 1-5) informing Claimant of a termination of FIP eligibility, effective July 2015, and a reduction in FAP benefits, due to Claimant's failure to participate with employment-related activities.
8. On June 8, 2015, DHHS mailed Claimant a notice of Noncompliance informing Claimant of a triage appointment scheduled on June 18, 2015.
9. On June 9, 2015, Claimant requested a hearing to dispute the termination of FIP benefits.
10. On June 18, 2015, Claimant failed to attend the triage appointment.
11. MDHHS determined that Claimant did not have good cause for failing to attend PATH and allowed the pending FIP and FAP negative actions to proceed.

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. MDHHS (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. MDHHS 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, to dispute a termination of FIP eligibility, effective July 2015. MDHHS presented a Notice of Case Action dated June 8, 2015 (Exhibits 1-5) which stated that Claimant's FIP eligibility stopped because a group member failed to participate in employment and/or self-sufficiency-related activities. MDHHS provided clarifying testimony that Claimant was uncooperative by failing to attend PATH.

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 (January 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.* All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. *Id.*, p. 4.

It was not disputed that MDHHS previously deferred Claimant from PATH. It was not disputed that the MRT discontinued Claimant's ongoing deferral and determined that Claimant could attend PATH. Claimant's testimony implied that she disputed the MRT decision to discontinue her PATH deferral.

When a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A (January 2015), p. 20. When a client requests a hearing based on not being granted a deferral, (MDHHS is to) be sure to advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. *Id.* (MDHHS is to) be sure the client understands the time to file a hearing is once he/she receives a notice of case action for noncompliance. *Id.*

The above-cited policy essentially prohibits clients from disputing the denial of an employment-related activity deferral based on disability. Accordingly, Claimant may not request a hearing to dispute the MRT denial of Claimant's deferral from PATH participation. The analysis will proceed and consider whether Claimant was noncompliant with PATH participation.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (October 2014), p. 2. Noncompliance of applicants, recipients, or member adds means doing 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.

It was not disputed that MDHHS mailed Claimant a notice to attend PATH. Claimant testified that she attended her ½ day appointment but left after only 30-40 minutes. It was not disputed that Claimant never returned to continue her participation. It is found that MDHHS established a basis for determining that Claimant was noncompliant with employment-related activities.

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.

It was not disputed that Claimant did not attend a triage appointment for June 8, 2015. Claimant testified that she simply forgot about her triage meeting. Claimant's failure to attend her triage appointment could be construed to completely bar Claimant from asserting good cause.

Claimant requested a hearing on June 9, 2015, several days before a scheduled triage appointment. Claimant's hearing request alleged health problems which would

reasonably affect Claimant's ability to attend PATH. The allegation is deemed to be sufficient notice to MDHHS of a claim of good cause. Claimant's notice of good cause before the triage is interpreted to allow Claimant to present evidence of good cause despite not attending the triage.

The analysis will proceed to determine if Claimant's alleged injuries amounted to good cause for failing to attend PATH. The only relevant policy requires that the injury must be debilitating. BEM 233A (May 2015), p. 5.

Claimant presented an x-ray report (Exhibits A3-A4) dated May 6, 2015. The report noted an impression upon flexion at C2-C3 and persistent anterior subluxation involving C7 on T1 with disc space narrowing. Degenerative changes in the thoracic spine were noted. A slight cortical defect involving the inferior endplate of L1 was noted.

Claimant presented a Disability Certificate (Exhibit A1) dated June 3, 2015. The certificate was completed by a nurse practitioner and stated that Claimant was disabled from work until July 3, 2015.

A Physical Therapy Script (Exhibit A2) dated June 3, 2015 was presented. The script was signed by a nurse practitioner. The script listed diagnoses of a left shoulder rotator cuff injury, lumbar pain, failed back surgery (s/p anterior cervical discectomy). Twice per week physical therapy for 4 weeks was noted as prescribed.

Claimant presented hospital documents (Exhibits A5-A10) dated July 2, 2015. Active medications included alprazolam, amphetamine-dextroamphetamine, lithium, and Prilosec. Treatment details were not provided but generic myelogram information was provided. A myelogram is understood to be a type of spinal radiology.

Claimant provided sufficient documentation of various spinal injuries, a need for physical therapy during a time she was expected to participate with PATH, and certification of disability form a nurse practitioner. Claimant's documentation sufficiently amounted to good cause for failing to attend PATH.

It is found that Claimant established good cause for not participating with PATH. Accordingly, it is found that MDHHS improperly terminated Claimant's FIP eligibility by failing to find good cause for Claimant's failure to participate with PATH. Claimant should be warned that the specific finding of good cause in this decision is limited only to this decision. No findings within this decision prevent MDHHS from resending Claimant to PATH.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS 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, to dispute a reduction in FAP benefits. A Notice of Case Action (Exhibits 1-5) verified that the only action taken to Claimant's FAP eligibility was disqualifying Claimant due to her failure to attend PATH.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following situations (BEM 233B (July 2013), p. 1.):

- Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is active RCA and becomes noncompliant with a RCA program requirement.
- 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. *Id.*

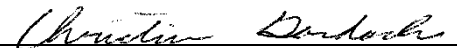
It has already been found that Claimant was not noncompliant with FIP eligibility due to good cause based on injury. Accordingly, the reduction in Claimant's FAP eligibility based on employment-related noncompliance was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDDHS improperly terminated Claimant's FIP eligibility and reduced Claimant's FAP eligibility. It is ordered that MDDHS perform the following actions:

- (1) reinstate Claimant's FIP eligibility, effective July 2015, and redetermine Claimant's FAP eligibility, effective July 2015, subject to the finding that Claimant established good cause for failing to participate with PATH;
- (2) supplement Claimant for any benefits improperly not issued; and
- (3) remove any relevant employment-related sanction from Claimant's disqualification history.

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



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **7/21/2015**

Date Mailed: **7/21/2015**

GC/tm

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:

[REDACTED]