

**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.: 15-011212
Issue No.: 3000 1008
Case No.: ██████████
Hearing Date: August 13, 2015
County: Wayne (15)

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, a telephone hearing was held on August 13, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ ██████████ specialist.

ISSUE

The issue is whether DHHS properly terminated Claimant's Family Independence Program eligibility due to Claimant's alleged noncompliance with Partnership. Accountability. Training. Hope. (PATH) participation.

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 was not an ongoing PATH participant.
3. On an unspecified date, MDHHS mailed Claimant notice of a PATH appointment scheduled for an unspecified date.
4. On an unspecified date, Claimant failed to attend her PATH appointment.
5. On April 20, 2015, MDHHS imposed a six-month employment disqualification against Claimant and mailed a Notice of Case Action (Exhibits 1-5) informing

Claimant of a termination of FIP eligibility, effective June 2015, due to Claimant's failure to participate in employment-related activities.

6. On April 20, 2015, MDHHS mailed Claimant a Notice of Noncompliance informing Claimant of a triage appointment scheduled on April 28, 2015.
7. On April 28, 2015, Claimant failed to attend the triage appointment.
8. Following the triage, MDHHS determined that Claimant did not have good cause for her failure to attend PATH.
9. On June 9, 2015, Claimant reapplied for FIP benefits.
10. On June 10, 2015, MDHHS denied Claimant's FIP application due to a previously imposed noncompliance disqualification.
11. On June 22, 2015, Claimant requested a hearing to dispute the termination of FIP benefits, and an unspecified action to Claimant's FAP eligibility.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute an unspecified action to her FAP eligibility. Claimant testified that MDHHS has since changed the unspecified FAP action. Claimant also testified that she is satisfied with the change in action and that she no longer requires a hearing concerning her FAP eligibility. Claimant's hearing request will be dismissed concerning FAP benefits.

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute the denial of a FIP application dated June 9, 2015. It was not disputed that MDHHS denied Claimant's application due to an employment disqualification imposed effective June 2015.

MDHHS policy allows for six month closures after a client is found to be noncompliant for a second time for failing to participate in employment-related activities without good cause (see BEM 233A (May 2015), p. 1). MDHHS imposed an employment-related disqualification, effective June 2015, against Claimant. Claimant's primary purpose for requesting a hearing was to dispute the legitimacy of the employment-related disqualification.

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.

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.

MDHHS testified that a notice to attend PATH orientation was mailed to Claimant in April 2015; Claimant did not dispute the testimony. MDHHS alleged that Claimant failed to attend her PATH orientation; Claimant did not dispute the testimony. A failure to attend PATH is an appropriate 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.

Claimant alleged good cause, in part, based on a lack of child care. MDHHS policy allows good cause for a lack of child care, but only under specific circumstances. The client [must have] requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. *Id.*, p. 5.

Claimant also alleged good cause, in part, based on a lack of transportation. Again, good cause requires specific circumstances. The client [must have] requested transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. *Id.*, p. 6. Claimant provided no evidence that she requested day care or transportation services from MDHHS. Instead, Claimant testified that an MDHHS staff member advised her that she needn't attend PATH if she needed CDC or lacked transportation. If Claimant's

testimony is deemed credible, good cause could be established. The credibility of Claimant's testimony must be examined.

Claimant testified that she met the MDHHS staff member who allegedly granted her good cause in the MDHHS office lobby. Claimant testified that she did not know the person's name. The testifying MDHHS specialist responded that it was possible that Claimant spoke with someone in the lobby because it was her MDHHS' office procedure to assign specialists to work in the lobby for the purpose of speaking with clients. This consideration bolstered Claimant's assertion of good cause.

Claimant's failure to identify the staff member's name is problematic for Claimant. Without a name, MDHHS is unable to rebut Claimant's testimony. Claimant also indicated that the person who allegedly informed her of good cause was her worker. A check of Claimant's Notice of Noncompliance (see Exhibits 1-2) revealed that Claimant had a different worker. This consideration lessened Claimant's assertion of good cause.

The testifying MDHHS specialist testified that if she had been notified by Claimant, she would have provided Claimant with bus tickets to solve her transportation problems and a Child Development and Care (CDC) application to address Claimant's lack of day care. It is presumed that most MDHHS specialists would have responded similarly, instead of offering blind acceptance. This consideration lessened Claimant's assertion of good cause.

It was not disputed that Claimant failed to attend a triage appointment. Claimant testified that she failed to attend the triage because she had an appointment with Friend of the Court (FOC). The MDHHS Hearing Summary noted Claimant's triage absence and further noted that Claimant failed to bring verification of her conflicting FOC appointment. The Hearing Summary statements should have put Claimant on notice to bring verification of her conflicting appointment to the hearing. Claimant did not bring verification of the FOC appointment to the hearing. Instead, Claimant testified that she got her dates wrong and there was no date conflict with the triage. This consideration lessened Claimant's assertion of good cause.

MDHHS presented testimony suggesting Claimant's failure to attend PATH was caused by Claimant being out of Michigan. MDHHS read case notes that a State of Tennessee employee called MDHHS to report that Claimant was applying for FAP benefits in Tennessee. The reading of case notes was hearsay; however, the notes seemed to be a reliable business record. Claimant responded that she did not apply for benefits in Tennessee. Claimant suggested that she's been a victim of identity theft in the past and suggested that an imposter may have applied for benefits on her behalf. It is improbable that MDHHS fraudulently entered notes in Claimant's case. It is possible that the notes were entered for an incorrect client. If Claimant briefly resided in Tennessee, it would explain why Claimant failed to attend her triage appointment and waited two months to request a hearing after closure. This consideration lessened Claimant's assertion of good cause.

MDHHS testimony indicated that Claimant reported that her car was stolen in June 2015. The statement suggests that Claimant likely had a vehicle she could have driven to attend PATH in April 2015. Claimant testified that her vehicle actually belonged to the father of her children and was not hers. Claimant's explanation does not adequately address why she could not have used the vehicle for transportation in April 2015. This consideration lessened Claimant's assertion of good cause.

Claimant testified that she has three children and is pregnant with a fourth child. Claimant also testified that she attended PATH in 2013. Claimant's history is indicative of receiving CDC benefits (or at least being aware of the program) in the past. During the hearing, Claimant was asked why she did not apply for CDC benefits. Claimant responded that she did because she could not afford immunization records or birth certificates for her child. Neither immunization records nor birth certificates are known to be required of CDC eligibility. This consideration lessened Claimant's assertion of good cause.

During the hearing, Claimant testified that she did not know about the triage because she was homeless and not getting her mail. The address was the same mailing address Claimant used as of the date of hearing. Claimant testified that was told by an unnamed MDHHS staff member that she could not get mail at the MDHHS office. MDHHS presented testimony that clients can receive mail at the MDHHS office. This consideration lessened Claimant's assertion of good cause.

Claimant testified that she did not have any family "up here." Claimant later testified that she has a fiancé. Claimant later testified that her mother lives in Detroit and took her to Mississippi. This consideration lessened Claimant's assertion of good cause.

MDHHS stated that Claimant's case included many notes. It was noted that Claimant reported being homeless in December 2014. It was noted that Claimant's car was stolen in June 2015. Notes did not reflect any indication of reported good cause or approved good cause. This consideration lessened Claimant's assertion of good cause.

Overall, Claimant's testimony concerning good cause was not credible. It is found that Claimant failed to establish good cause for failing to attend PATH. Accordingly, it is found that MDHHS properly imposed an employment disqualification, properly terminated Claimant's FIP eligibility, and properly denied Claimant's subsequent FIP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Claimant's FIP eligibility, effective June 2015, due to a properly imposed six month employment-related activity noncompliance

penalty. It is further found that MDHHS properly denied Claimant's FIP application dated June 9, 2015. The actions taken by MDHHS are **AFFIRMED**.



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

Date Signed: **8/19/2015**

Date Mailed: **8/19/2015**

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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 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]
[REDACTED]
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