

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017327
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: November 12, 2015
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 12, 2015, from Detroit, Michigan. The Petitioner appeared pro se. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearings Facilitator, [REDACTED] [REDACTED] of Michigan Works, and [REDACTED].

ISSUE

Did the Department properly terminate Petitioner's benefits for noncompliance with the PATH program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an FIP recipient in Wayne County.
2. Petitioner was a mandatory PATH participant.
3. On August 25, 2015, Petitioner was given a job referral and interview by PATH representatives.
4. The job interview was scheduled for August 26, 2015.
5. Petitioner informed the PATH officials at the time that he had access to GPS services and was also given a map to the job interview for good measure.
6. On August 27, PATH officials were informed that Petitioner had failed to follow up with the job referral.

7. This was not the first job referral that Petitioner had failed to attend, and had a prior history of not following up on job interviews.
8. Petitioner was found non-participatory by PATH officials.
9. On September 1, 2015, Petitioner was sent a DHS-2444 which scheduled a triage for September 10, 2015; Petitioner was also sent a notice of case action closing the case at this time.
10. On September 10, 2015, a triage was held.
11. Petitioner did not provide documentary evidence of good cause.
12. Petitioner alleged at triage that he was unaware of how to get to the job interview in question.
13. The Department held that Petitioner had no good cause for their non-participation with PATH and held that Petitioner was noncompliant.
14. This was 1st incident of noncompliance for the Petitioner.
15. Petitioner's case was sanctioned and closed beginning October 1, 2015.
16. On September 11, 2015, Petitioner requested a hearing.

CONCLUSIONS OF LAW

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.

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Partnership. Accountability. Training. Hope. (PATH) Program or other employment service provider, unless 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 to find employment. BEM 230A, p. 1 (2014). A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A,

p. 1. This is commonly called “non-compliance”. BEM 233A defines non-compliance as failing or refusing to, without good cause:

“...Accept a job referral...” BEM 233A pg. 2 (2015).

However, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for non-participation with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance is FIP closure. For the first occurrence of non-compliance on the FIP case, the client is sanctioned for a period not exceeding 3 months. BEM 233A.

Furthermore, PATH participants cannot be terminated from the PATH program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. At these triage meetings, good cause is 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 MWA. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to PATH, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

After reviewing the facts of the case, the undersigned holds that the Department has properly shown that Petitioner was non-participatory. Internal Department documents, as well as Petitioner testimony, show that Petitioner failed to accept a job referral as scheduled. Furthermore, this was not the first job referral Petitioner had failed to follow up on, and Petitioner was currently underemployed and failing to meet hour requirements.

Additionally, the Department appears to have provided a procedurally correct triage; a triage was properly held, Petitioner was given a chance to provide evidence of good cause, and a determination of good cause was made using the evidence at hand.

Finally, Petitioner failed to provide the Department proof of good cause before the date of negative action. Petitioner alleged no facts that differed from allegations already made. Petitioner alleged an inability to find the job site, but per case notes from the date of the referral, Petitioner stated that he had “navigation” and transportation. PATH officials specifically asked Petitioner the day before whether assistance was needed in getting to the job site and assistance was refused. Petitioner was also given a map to the job site that day. Furthermore, the job site in question did not note that Petitioner had attempted to follow up with them upon failing to attend the interview.

As such, the undersigned finds that Petitioner’s statements at the triage ring hollow, and cannot be said to constitute good cause.

Furthermore, during testimony, Petitioner was unable to give any definitive statement as to why he failed to attend this interview, and only appeared to reference a prior interview that he also failed to attend. Per his own testimony, Petitioner failed to follow up with this job referral, only calling once and never making an effort to secure the employment. As such, given Petitioner's own history as he himself testified to, the undersigned finds the Department's reasons for believing that Petitioner was not putting forth a reasonable effort into securing employment quite credible.

Thus, as there was no proof of good cause, the Department could not have found good cause when it reviewed the case at triage.

Therefore, the Department has met its burden in proving its case. It has shown that Petitioner was non-participatory with PATH. It showed that Petitioner did not meet the standards of good cause. It showed that a triage was properly held, and that Petitioner was given an adequate chance to submit documentation of good cause, which Petitioner failed to do.

BEM 233A states that the Petitioner must submit verification and documentation of good cause and the Administrative Law Judge agrees that proof up to the current point in time has been lacking. Therefore, because Petitioner has failed to prove that they had good cause, and failed to submit evidence of good cause to the Department before the date of negative action, as well as failed to submit evidence that they were not non-participatory, the Administrative Law Judge holds that the Department was correct to find the Petitioner in noncompliance, and correct to impose the sanction prescribed.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FIP benefits and levied a sanction on Petitioner's FIP case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/2/2015**
Date Mailed: **12/2/2015**
RJC/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:

