

**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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MAHS Reg. No.: 15-015429
Issue No.: 1008
Agency Case No.: ██████████
Hearing Date: October 15, 2015
County: Wayne (31)

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 October 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 ██████████, specialist, and ██████████ case worker for Access.

ISSUE

The issue is whether MDHHS 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 an ongoing PATH participant with a 20 hour per week attendance obligation.
3. Claimant last attended PATH on June 11, 2015.
4. On June 18, 2015, Claimant failed to attend an appointment scheduled so that Claimant could submit employment application logs.

5. On July 2, 2015, MDHHS imposed a 6-month employment disqualification against Claimant and mailed written notice informing Claimant of a termination of FIP eligibility, effective August 2015, due to Claimant's failure to participate in employment-related activities.
6. On July 2, 2015, MDHHS mailed Claimant a Notice of Noncompliance informing Claimant of a triage appointment scheduled on July 8, 2015.
7. On July 8, 2015, Claimant failed to attend her triage appointment.
8. Following the triage, MDHHS determined that Claimant did not have good cause for her failure to attend PATH.
9. On August 18, 2015, Claimant requested a hearing to dispute the termination of FIP benefits.

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 to dispute a termination of FIP benefits. MDHHS presented a Notice of Case Action (Exhibits 1-4), dated July 2, 2015. The notice stated that Claimant's FIP eligibility was ending effective August 2015, due to a group member failing to participate in employment-related activities. The notice also informed Claimant of a 6-month employment-related disqualification. It was not disputed that Claimant was allegedly noncompliant for 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.

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 Claimant had a 20 hour per week obligation to attend PATH. It was not disputed that Claimant stopped attending PATH as of June 11, 2015. Claimant's PATH case manager credibly testified that Claimant was sent a warning letter advising her to report to PATH by June 29, 2015. It was not disputed that Claimant failed to attend PATH after June 11, 2015. Presented evidence sufficiently established a basis for noncompliance.

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.*

It was not disputed that Claimant failed to attend her triage appointment. It is presumed that MDHHS mailed the letter informing Claimant of her July 8, 2015, triage appointment on July 2, 2015 (the same date MDHHS mailed Claimant the Notice of Case Action).

Claimant testified that she received the triage appointment letter over a week after her triage meeting date. Claimant also testified that the letter was postmarked for the same date she received the letter. Claimant did not bring the envelope to the hearing. Though Claimant's testimony was neither supported nor particularly persuasive, Claimant was given an opportunity to present good cause for her PATH absence during the hearing.

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 testified that she had recurring complications due to endometriosis throughout June 2015. Claimant testified that she was hospitalized twice in June 2015 and July 2015. Claimant testified that she was unable to perform any activities, including PATH, during that time. Claimant's testimony was repeatedly hampered by a lack of supporting documentation or evidence.

For example, Claimant testified that she left 2-3 telephone messages for her PATH case worker when she stopped attending PATH in June 2015. Claimant's PATH case worker did not recall any such messages. Claimant did not verify any of her calls with a phone log.

Claimant testified her triage notice was postmarked after the date of triage. Claimant did not bring the envelope to hearing though Claimant alleged she gave the envelope to MDHHS.

Most importantly, Claimant did not present any hospital documents verifying endometriosis complications from June 2015. Claimant testified that she submitted all of her hospital documents to her MDHHS and PATH workers though neither worker recalled receiving any such documents from Claimant in June 2015 or later.

Based on presented evidence, it is found that Claimant failed to establish good cause for her failure to attend PATH. Accordingly, the termination of FIP eligibility was proper.

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 August 2015, due to a properly imposed 6-month employment-related activity noncompliance penalty. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/16/2015**

Date Mailed: **10/16/2015**

CG/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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]