

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018004
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: November 19, 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 19, 2015, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to failure to cooperate with employment-related activities and sanction her case for a six-month minimum closure?

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 ongoing recipient of FIP benefits and participated in the Partnership.Accountability.Training.HOPE. (PATH) program as a condition of FIP eligibility.
2. On [REDACTED], Petitioner notified the Department that she was pregnant, and she stopped participating in the PATH program.
3. On [REDACTED], the Department sent Petitioner (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage [REDACTED], and (ii) a Notice of Case Action notifying her that,

effective [REDACTED], her FIP case was closing for a six-month minimum (Exhibits B and C).

4. On [REDACTED], Petitioner participated in the triage, explaining that she did not participate in FIP activities because she had a high-risk pregnancy.
5. The Department concluded that Petitioner did not have good cause for her noncompliance.
6. On [REDACTED] Petitioner's FIP case closed and was sanctioned with a minimum six-month sanction.
7. On [REDACTED], Petitioner requested a hearing disputing the Department's actions concerning her FIP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

The [REDACTED], Notice of Case Action notified Petitioner that her FIP case was closing effective [REDACTED], because she had failed to comply with employment-related activities. As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (July 2015), p. 1; BEM 233A (May 2015), p. 1. A client is in noncompliance with her FIP obligations if she fails or refuses, without good cause, to participate in employment and/or self-sufficiency-related activities. BEM 233A, p. 2. In this case, Petitioner did not dispute that she was unable to complete her PATH requirements. Thus, she was in noncompliance with her employment activities.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. A noncompliance is excused if a client can establish good cause for the noncompliance. BEM 233A, p. 4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4.

In this case, Petitioner attended the triage and explained that she had a high-risk pregnancy and was put on bed rest by her doctor on [REDACTED]. The Department concluded that, because Petitioner failed to provide any documentation from her doctor to support her explanation at the triage, she had failed to establish good cause for her nonparticipation. Petitioner explained at the hearing that she found out she was pregnant on [REDACTED]; and at that time, she dropped a copy of her ultrasound, a letter from her doctor indicating that she was pregnant, and a letter indicating that she was a high-risk pregnancy and was put on bed rest. Because she had dropped off these items to the Department, she believed that the Department had the documents, and she did not have any new documentation or copies of the letters she previously submitted to the Department to present at the triage. The Department acknowledged receiving notice of Petitioner's pregnancy on [REDACTED], but denied receiving any letter that her pregnancy is high risk.

A client is eligible for a deferral from PATH participation due to pregnancy complications. BEM 230A, p. 9. In order to request such a deferral, the client must provide medical verification that indicates that she is unable to participate. BEM 230A, p. 9. A note from the client's doctor is sufficient verification of a problem pregnancy. BEM 230A, p. 24.

In this case, Petitioner credibly testified that she believed that she had submitted adequate verification of her problem pregnancy to the Department with the notice of her pregnancy that the Department acknowledged receiving. Although the Department denied receiving any such verification, on [REDACTED], Petitioner submitted a letter from her doctor that stated in relevant part as follows:

[Petitioner] is under my professional care and as of [REDACTED] I am putting her on bed rest until her expected due date of 1 [REDACTED].

Although the note could have been a bit more clearly written, it is sufficient, contrary to the Department's position, to establish that Petitioner was put on bed rest on [REDACTED]. While the notice was delivered to the Department on [REDACTED], after Petitioner's case closed, it corroborates Petitioner's testimony that she was placed on bed rest on [REDACTED], and supports her position that she submitted documentation of the same to the Department along with notice of her pregnancy. Because Petitioner believed that she had been deferred from the PATH program due to her high-risk pregnancy, she has established good cause for her failure to participate in the PATH program.

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 did not act in accordance with Department policy when it closed Petitioner's FIP case.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the six-month FIP sanction for noncompliance with employment activities applied to Petitioner's case on or about [REDACTED], and for the period [REDACTED];
2. Reinstate Petitioner's FIP case effective [REDACTED]; and
3. Issue supplements to Petitioner for FIP benefits she was eligible to receive but did not from [REDACTED], ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/25/2015**

ACE/jaf

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:

