

**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.: 15-023900
Issue No.: 1008
Agency Case No.: ██████████
Hearing Date: February 25, 2016
County: Wayne-District 17
(Greenfield/Joy)

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 February 25, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department was represented by ██████████, Family Independence Manager, and ██████████, PATH Coordinator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case for noncooperation with employment-related activities?

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 a FIP recipient who, as a condition of continued benefit receipt, was required to complete and submit activity logs to the case manager at ACCESS, the PATH provider.
2. After Petitioner failed to complete and submit several logs, the ACCESS case manager sent Petitioner a November 10, 2015 letter advising her that she was required to attend an in-person meeting or her case would be sent to triage (Exhibit H).
3. On November 17, 2015, Petitioner attended the meeting and signed a reengagement letter agreeing to complete assigned activities, turn in required

documents, contact the PATH program if supportive services were needed, and comply with program requirements (Exhibit I). She was advised that she had to return a completed log on Mondays (Exhibit G).

4. Petitioner did not subsequently turn in any activity logs (Exhibits G and K).
5. On December 7, 2015, the PATH program sent Petitioner a triage meeting notice advising her that because she was not complying with her PATH activities, she would receive a triage appointment notice from the Department (Exhibit L and J).
6. On December 7, 2015, 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 December 17, 2015 and (ii) a Notice of Case Action notifying her that, effective January 1, 2016, her FIP case was closing for a six-month minimum (Exhibits D and E).
7. Petitioner participated in the triage, explaining that she did not participate in FIP activities because she had a high-risk pregnancy and transportation issues.
8. The Department concluded that Petitioner did not have good cause for her noncompliance.
9. On December 17, 2015, 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 December 7, 2015 Notice of Case Action notified Petitioner that her FIP case was closing effective January 1, 2016 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 (October 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, the Department testified that Petitioner attended the triage and explained that she could not participate in her PATH activities because she had a problem pregnancy and had transportation issues. The Department concluded that, because Petitioner failed to provide any documentation from her doctor to support her pregnancy-related problems and because she had failed to attend her PATH activities where she could receive bus tickets, she had failed to establish good cause for her nonparticipation.

Good cause for noncompliance includes lack of transportation. BEM 233A, p. 5. To establish good cause based on lack of transportation, there must be evidence that the client requested transportation from the Department, PATH or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A, p. 6.

In this case, Petitioner acknowledged that she had raised the lack of transportation issue with her PATH worker and the worker gave her bus tickets to attend required activities. Petitioner did not present any evidence that the bus tickets were insufficient. Therefore, Petitioner has failed to establish good cause based on lack of transportation.

At the hearing, Petitioner also argued that she advised the Department at the triage that she did not complete her PATH activities because she had day care issues. To establish good cause based on lack of day care, there must be evidence that the client requested child care services from the Department 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. BEM 233A, p. 5.

In this case, Petitioner acknowledged that she had applied for and received child development and care (CDC) benefits and was unable to establish that the CDC benefits were not available to her at the time she signed the November 17, 2015 reengagement letter agreeing to complete her PATH assignments. Therefore, she cannot rely on lack of day care to establish good cause for her noncompliance.

The final good cause argument raised by Petitioner was that she could not complete her PATH activities due to her problem pregnancy. Good cause includes being physically unfit for the job or activity as shown by medical evidence or other reliable information. BEM 233A, p. 5. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A, p. 5. Clients are also eligible for a deferral from PATH due to pregnancy complications but must provide medical verification through a note from the client's doctor, a DHS-49, DHS-54A, or DHS-54E that indicates that they are unable to participate. BEM 230A, pp. 10, 23.

The Department testified that Petitioner raised her problem pregnancy to explain her noncompliance, but, because she failed to present any documentation supporting her explanation at the triage, she was found not to have good cause. At the hearing, Petitioner presented a document from DMC Sinai-Grace entitled "medical record-prenatal and pregnancy" dated November 12, 2015 showing that she was determined a high risk pregnancy, bed rest recommended. (Exhibit 2). Petitioner testified that she had the document at the time of her triage and let the Department know she had the document but admitted she did not bring the document to the triage. She acknowledges that she did not provide this written documentation to her PATH worker or to the Department at any time prior to the January 1, 2016 FIP case closure. Good cause must be based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. Because Petitioner failed to timely verify her problem pregnancy to the Department prior to case closure, the Department acted in accordance with Department policy when it closed her FIP case for noncompliance with employment-related activities without good cause.

At the hearing, Petitioner acknowledged having had a prior FIP case closure. Because this was her second incidence of noncompliance, the Department properly applied a second sanction to her FIP case, prohibiting her from seeking FIP benefits for a minimum six-month period. BEM 233A, p. 8.

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 case for a minimum six month period.

DECISION AND ORDER

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



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

Date Signed: **3/3/2016**

Date Mailed: **3/3/2016**

ACE / tlf

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 email addresses]

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