

**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.: 15-023901
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: February 11, 2016
County: WAYNE-DISTRICT 31

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 11, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by [REDACTED], Eligibility Specialist; [REDACTED], Partnership. Accountability. Training. Hope. (PATH) worker; and [REDACTED] caseworker from [REDACTED].

ISSUE

Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on Petitioner's failure to participate in employment and/or self-sufficiency related activities without good cause?

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.
2. From on or around mid-September 2015 to mid-October 2015, Petitioner missed four consecutive weeks of PATH participation and/or failure to submit job search logs. See Exhibit A, p. 3.
3. On October 19, 2015, the Department mailed Petitioner a Notice of Noncompliance scheduling her for a triage appointment on October 28, 2015. Exhibit A, pp. 6-7.

4. On October 19, 2015, the Department sent Petitioner a Notice of Case Action closing her FIP case, effective November 1, 2015, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 8-11.
5. On October 28, 2015, Petitioner failed to attend her triage appointment; however, the Department still reviewed Petitioner's case file and found no good cause for her non-compliance. See Exhibit A, pp. 1 and 12-13.
6. On November 5, 2015, Petitioner provided a doctor's note that indicated she may be excused from work for the time period of September 30, 2015 to December 18, 2015, because her son gets a home visit for early intervention three times a week. See Exhibit A, p. 14.
7. On December 28, 2015, Petitioner filed a hearing request, protesting the FIP case closure. See Exhibit A, p. 2.

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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (May 2015), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider, participate in employment and/or self-sufficiency-related activities etc...See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. 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. BEM 233A, pp. 4-6.

In the present case, the Department presented Petitioner's "View/Update Case Notes" (hereinafter referred to as "case notes"), that shows a documented history of her participation in the PATH program. See Exhibit A, p. 3.

At the time, Petitioner was enrolled in school, but the caseworker from ACCESS testified that she had yet to receive the proper school documentation. See Case Notes, Exhibit A, p. 3. As such, Petitioner was required to submit 20 hours of job search logs in the meantime. See Case Notes, Exhibit A, p. 3. Petitioner, though, argued that she did provide proper documentation. However, the caseworker from [REDACTED] claimed that the verification was not sufficient. Nonetheless, on September 18, 2015, the case notes indicated that Petitioner stated that the school has yet to prepare her verification and that she prefers to stay in job search. See Exhibit A, p. 3. Therefore, Petitioner was required to submit 20 hours of job search logs each week.

On September 10, 2015, the case notes indicated that Petitioner dropped off her job search logs. See Exhibit A, p. 3. However, for the following week, which was on or around September 17, 2015, the case notes stated that Petitioner did not attend her appointment with the logs. See Exhibit A, p. 3.

On September 18, 2015, the case notes indicated that the caseworker from [REDACTED] contacted the Petitioner as to the missed absences and verification of the school enrollment letter. See Exhibit A, p. 3. And as stated previously, the case notes stated that Petitioner informed the PATH program that the school has not prepared the letter, she would prefer to stay in job search, and she will bring her logs in. See Exhibit A, p. 3.

On September 22, 2015, the case notes indicated that Petitioner did not attend even though she stated she would. See Exhibit A, p. 3. On September 24, 2015, again, the case notes indicated that Petitioner did not attend. See Exhibit A, p. 3.

On October 1, 2015, the case notes stated that the caseworker from [REDACTED] attempted to contact the Petitioner, but to no avail. See Exhibit A, p. 3.

On October 15, 2015, the case notes indicated that the caseworker from [REDACTED] contacted Petitioner for a noncompliance warning and the Petitioner stated her child

had been sick and she has not attended. See Exhibit A, p. 3. The case notes further indicated that the ACCESS caseworker informed Petitioner that she would have to bring in documentation to show proof of her child's illness and that Petitioner stated she does not have documentation but that she will obtain it and bring in tomorrow. See Exhibit A, p. 3.

During the hearing, the caseworker from [REDACTED] testified that she never received any verification. In response, Petitioner testified her doctor did fax over verification regarding her child's illness. On September 16, 2015, Petitioner testified that her son suffered a seizure(s) and that her doctor faxed over to the PATH program verification of her son's medical problems on or around September 17, 2015. In fact, Petitioner provided verification that her child suffers from medical problems. See Exhibit 1, p. 1 (doctor's letter dated March 11, 2015). Petitioner indicated that the Department was well aware of her child's medical conditions.

On October 19, 2015, the Department mailed Petitioner a Notice of Noncompliance scheduling her for a triage appointment on October 28, 2015. Exhibit A, pp. 6-7.

On October 28, 2015, Petitioner failed to attend her triage appointment; however, the Department still reviewed Petitioner's case file and found no good cause for her non-compliance. See Exhibit A, pp. 1 and 12-13.

At the hearing, Petitioner testified that she did not attend the triage appointment because she never receive the Notice of Noncompliance, even though it was mailed to the proper address at the time. Petitioner's main good cause argument as to why she missed the multiple appointments and/or failure to submit the job search logs was due to her child's illness. See BEM 233A, p. 5 (The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client). It was discovered that the Department did receive a doctor's on November 5, 2015, which stated that Petitioner may be excused from work from September 30, 2015 to December 18, 2015, because her son gets home visit for early intervention three times a week. See Exhibit A, p. 14. However, the Department argued that it received the verification subsequent to the case closure. It should be noted that Petitioner testified that she only missed one week of job search logs to submit.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective November 1, 2015, in accordance with Department policy.

First, the evidence established that Petitioner was in non-compliance with the PATH program because she failed to attend her PATH appointments and/or failure to submit job search logs for approximately four weeks. See Exhibit A, p. 3. This would have been from on or around mid-September 2015 to mid-October 2015. During this time period, the evidence established that Petitioner failed to participate in employment and/or self-sufficiency-related activities. See BEM 233A, pp. 2-3.

Second, the undersigned finds that Petitioner failed to present a good cause reason for her non-compliance. Petitioner argued that her main good cause reason was due to her child's illness. The problem lies on the fact that Petitioner missed four straight weeks of PATH participation. Petitioner argued that her doctor faxed proof of her child's medical problems. However, the undersigned finds the caseworker's testimony credible that she never received such verification. The undersigned finds the caseworker's testimony credible based on the fact that the case notes indicated no such proof was received. See Exhibit A, p. 3.

Then, subsequent to the case closure, the Department received a doctor's note on November 5, 2015, which stated that Petitioner may be excused from work from September 30, 2015 to December 18, 2015, because her son gets a home visit for early intervention three times a week. See Exhibit A, p. 14.

A policy issue did arise as to consider if whether Petitioner was not required to participate in employment services. Non-WEIs are FIP clients who do not count in the state's work participation rate. BEM 233A, p. 16. Non-WEIs do not have required hours. BEM 233A, p. 16. Non-WEIs are not required to participate in work related activities for a minimum number of hours, but must complete a FAST and FSSP. BEM 233A, p. 16. Instead, non-WEIs should engage in other activities to strengthen the family or improve self-sufficiency skills. BEM 233A, p. 16. Non-WEIS include a spouse or parent who provides care for a spouse or child with disabilities living in the home is not a WEI and is not referred to PATH if:

- The spouse/child with disabilities lives with the spouse/parent providing care.
- A doctor/physician's assistant (P.A.) verifies all of the following in writing or by using a DHS-54A, Medical Needs, form or DHS-54E, Medical Needs-PATH:
 - The spouse/child with disabilities requires a caretaker due to the extent of the disability.
 - The spouse/parent is needed in the home to provide care.
 - The spouse/parent cannot engage in an employment-related activity due to the extent of care required.

BEM 233A, p. 17.

In the present case, the Department was unaware if Petitioner should be considered a non-WEI who should be exempt from participating in work related activities because it did not receive the verification until after the case closure. Moreover, Petitioner did present a doctor's note dated March 11, 2015, which listed all of the child's medical problems. See Exhibit 1, p. 1. However, this doctor's note failed to meet the deferral requirements based on a parent who provides care for a child with disabilities. See BEM 233A, pp. 17 and 23. Also, Petitioner indicated that she had a Medical Needs

form with her that was dated January 28, 2016, but again, this was dated after the case closure.

Furthermore, Petitioner was fully engaged in participating in the PATH program and the case notes do not indicate that Petitioner is unable to participate in the PATH program due to the care of a child with disabilities. See BEM 233A, pp. 15-16 (Voluntary Participants). In fact, the case notes indicated that Petitioner informed the caseworker from ACCESS that she was unable to attend because her baby has been sick, there is no mention that she is unable to participate in the PATH program due to her child's disabilities.

Additionally, even if the undersigned accepted the verification for good cause purposes, this letter fails to address Petitioner's inability to attend the PATH program from on or around September 17, 2015 to September 24, 2015. See Exhibit A, p. 3. The doctor letter indicated that Petitioner was not able to participate effective September 30, 2015. See Exhibit A, p. 14. Therefore, it can be inferred that Petitioner could have participated in the PATH program from on or around September 17, 2015 to September 24, 2015. See Exhibit A, p. 3. The evidence clearly established that Petitioner did not attend the PATH program from on or around September 17, 2015 to September 24, 2015.

In summary, Petitioner missed four consecutive weeks of PATH participation in which she did not have a valid good cause reason. Therefore, the Department acted in accordance with Department policy when it found Petitioner in non-compliance with the PATH program and closed her benefits effective November 1, 2015.

DECISION AND ORDER

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 effective November 1, 2015.

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



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/18/2016**
Date Mailed: **2/18/2016**
EF/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:



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