



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 11, 2016
MAHS Docket No.: 16-000583
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 March 9, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] PATH worker.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case for failure to participate in 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 is a FIP recipient.
2. On [REDACTED], the Department sent Petitioner a PATH Appointment Notice for an appointment scheduled on [REDACTED].
3. Petitioner failed to appear for the [REDACTED] appointment.
4. On [REDACTED], the Department sent Petitioner a Notice of Non-Compliance which scheduled an appointment for [REDACTED].

5. Also on [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FIP would close effective [REDACTED].
6. Petitioner failed to appear for the [REDACTED] appointment.
7. Petitioner's FIP benefits closed effective [REDACTED].
8. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions.

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 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.

Additionally, Department policy requires that clients complete the 21 day PATH AEP part of orientation which is an eligibility requirement for approval of the FIP application. PATH participants must complete all of the following in order for their FIP application to be approved:

- Begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice.
- Complete PATH AEP requirements.
- Continue to participate in PATH after completion of the 21 day AEP. BEM 229 (October 2015), p. 1.

The Department also requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. BEM 233A (May 2015), p. 1.

A Work Eligible Individual (WEI) and a non-WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.

- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. *Id.*

In this case, the Department sent Petitioner a PATH Appointment Notice scheduling her PATH appointment for [REDACTED]. Petitioner received the notice and contacted her worker. At that time, Petitioner was in the process of completing the AEP program. Petitioner testified that her AEP worker indicated that she would have the PATH appointment rescheduled. The AEP worker failed to reschedule the appointment and on [REDACTED], the Department sent Petitioner a Notice of Non-Compliance. The Notice of Non-Compliance scheduled an appointment for [REDACTED]. The purpose of the [REDACTED] appointment was to determine whether Petitioner could establish good cause for failing to appear for the PATH appointment.

Petitioner failed to appear for the [REDACTED] appointment. The Department found that because Petitioner failed to appear for the [REDACTED] she failed to provide a reasonable explanation for missing the [REDACTED] appointment and therefore good cause did not exist.

Petitioner testified that she did not receive the Notice of Non-Compliance. Petitioner stated that she has had numerous issues with the timely receipt of her mail. The Department confirmed that the Notice of Non-Compliance was returned. The Department further confirmed that the Notice of Non-Compliance was sent to Petitioner's current address. Accordingly, it is found that the return of Petitioner's mail was beyond her control and as such, she established good cause for failing to appear for the [REDACTED] appointment. It is also found that Petitioner reasonably relied on her AEP worker to timely reschedule the initial appointment and as such has established good cause for failing to appear for the [REDACTED] appointment.

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 FIP benefits.

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. Reinstate Petitioner's FIP benefits effective [REDACTED];

2. Issue supplements to Petitioner for FIP benefits she was eligible to receive but did not receive from [REDACTED], ongoing; and
3. Notify Petitioner in writing.

JM/hw



Jacquelyn A. McClinton

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]