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GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

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Date Mailed: March 11, 2016  
MAHS Docket No.: 16-000711  
Agency No.: ██████████  
Petitioner: █████ █████

**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**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 7, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████ Family Independence Specialist.

**ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) case and impose a three month FIP sanction on the basis that she failed 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. Petitioner sought deferral from participation in the work program on the basis that she is disabled.
3. Petitioner's request to be deferred from participation in employment related activities was denied by the Disability Determination Services (DDS), formerly known as the Medical Review Team (MRT), as it was determined that Petitioner

was not disabled and that she was able to participate in work activities. (Exhibit A, pp. 10-17)

4. On November 10, 2015, the Department sent Petitioner a PATH Appointment Notice instructing her to attend the PATH program on November 23, 2015. (Exhibit A, p.8)
5. Petitioner did not attend her PATH appointment and did not contact the Department to reschedule the PATH appointment.
6. On December 7, 2015, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on December 15, 2015, to discuss whether good cause existed for her alleged noncompliance. (Exhibit A, pp. 6-7)
7. On December 7, 2015, the Department sent Petitioner a Notice of Case Action informing her that the Department intended to close her FIP case effective January 1, 2016, because she failed to participate in employment and/or self-sufficiency-related activities without good cause. The Notice informed Petitioner that the FIP case will be closed for at least three months. (Exhibit A, pp. 20-23)
8. On December 15, 2015, a triage was held in Petitioner's absence. At the conclusion of the triage, the Department determined that Petitioner did not have good cause for her noncompliance. (Exhibit A, p. 5)
9. Petitioner's FIP case closed effective January 1, 2016. (Exhibit A, p. 3)
10. On January 19, 2016, Petitioner requested a 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 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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (May 2015), p. 1. The WEI can be considered noncompliant for

several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider; failing or refusing to appear for a scheduled appointment or meeting related to assigned activities; failing to provide legitimate documentation of work participation; failing to participate in a required activity; and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6. BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A, pp. 1,9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (October 2015). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In the present case, Petitioner had alleged a disability as grounds for deferral from participating in PATH activities. BEM 230A (October 2015), pp. 7-15. After review, it was determined that Petitioner was not disabled and that she was able to participate in the PATH program, thus her request for deferral was denied. (Exhibit A, pp.10-17). Pursuant to BEM 203A and BEM 229, the Department sent Petitioner a PATH Appointment Notice instructing her to attend the PATH program on November 23, 2015. (Exhibit A, p.8); BEM 230A, pp.12-15; BEM 229 (October 2015), pp.3-6.

At the hearing, the Department testified that because Petitioner did not attend her scheduled PATH appointment as instructed, and because the Department did not receive any communication from Petitioner concerning her inability to attend the PATH appointment, Petitioner was placed in noncompliance with work-related activities and a triage meeting scheduled for December 15, 2015. At the triage, the Department determined that Petitioner did not have good cause for her failure to attend her PATH

appointment and initiated the closure of her FIP case effective January 1, 2016, imposing a three month sanction for the first occurrence of noncompliance. The Department notified Petitioner of the case closure by sending her a Notice of Case Action.

Petitioner testified that she did not attend her PATH appointment on November 23, 2015, and the triage meeting on December 15, 2015, because she did not receive the PATH Appointment Notice or the Notice of Noncompliance. Petitioner stated that she also did not receive the Notice of Case Action advising of the case closure and that she found out about her case closing after her January 2016 benefits were not loaded on her card. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). A review of the documents sent to Petitioner informing her of the PATH appointment, triage meeting, and case closure notices establish that all were sent to Petitioner at her confirmed mailing address. Petitioner asserted that she was having problems with receiving mail as there was a change in her usual mail carrier/delivery person. Petitioner confirmed that she did not know about the mail issues until after her case closed in January 2016 and that prior to the case closure, she did not notify the Department of any of the mail issues and did not report the problem to the Post Office. Thus, based on Petitioner's testimony at the hearing, she has not presented sufficient evidence to rebut the presumption that she received the PATH Appointment Notice and other documents mailed to her by the Department, as it was not established that the Department had any knowledge of the alleged mail issues.

Because Petitioner did not establish that prior to the triage and negative action date, she provided the Department with a sufficient good cause explanation for her failure to attend her PATH 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 acted in accordance with Department policy when it determined that Petitioner was noncompliant with work related activities without good cause, closed Petitioner's FIP case and imposed a three month sanction.

### **DECISION AND ORDER**

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



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**Zainab Baydoun**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

ZB/tlf

**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]  
[REDACTED]  
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**Petitioner**

[REDACTED]  
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**cc:**

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