



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 25, 2016  
MAHS Docket No.: 16-001230  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 17, 2016, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator.

**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 was previously granted a deferral from participation in the PATH work program due to her medical conditions.
3. Pursuant to a redetermination, Petitioner was required to provide the Department with an updated DHS 54 Medical Needs form in order for her deferral from attending PATH to be reviewed.

4. Petitioner returned the Medical Needs form on December 29, 2015. The doctor completing the form indicated that the Petitioner could work at her usual occupation without limitations and could work at any job. (Exhibit A, pp. 12-13)
5. Based upon the Medical Needs form submitted by the Petitioner, the Department sent Petitioner a PATH Appointment Notice instructing her to attend the PATH program on January 19, 2016. (Exhibit A, p. 4)
6. Petitioner did not attend the PATH appointment and a Notice of Noncompliance was issued on January 25, 2016, scheduling a triage for February 1, 2016. The Notices were sent to the Petitioner at her confirmed mailing address. (Exhibit A, pp. 4-6)
7. A triage was held and the Department found no good cause for the Petitioner's failure to attend the PATH appointment based upon the Medical Needs form provided by the Petitioner to the Department as part of the redetermination.
8. The Department issued a Notice of Case Action on January 25, 2016 closing Petitioner's FIP cash assistance case for failure to participate in PATH without good cause effective March 1, 2016. The Department imposed a three month sanction. The Notice of Case Action was sent to Petitioner's correct address. (Exhibit A, p. 7-10)
9. On February 2, 2016, Petitioner requested a hearing disputing the Department's actions with respect to the closure of 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.

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. 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 this case, the Petitioner is disputing the Department's closure of her FIP cash assistance case. Petitioner had been previously deferred from participating in PATH and at redetermination was instructed to submit an updated Medical Needs form so the Department and MRT could determine if she would continue to be eligible for deferral. Petitioner submitted the Medical Needs form completed by a new doctor, as she stated her previous doctor closed. The doctor completing the form indicated that Petitioner could work at her usual occupation without limitations and could work at any job. (Exhibit A, pp. 12-13). Based upon the Medical Needs form, the Department sent Petitioner a Path Appointment Notice, assigning her to attend PATH. Petitioner failed to attend her scheduled PATH appointment, and the Department sent her a Notice of Noncompliance instructing her to attend a triage meeting on February 1, 2016. Petitioner attended a meeting at the Department on February 1, 2016, however, it was unclear if this appointment was the triage meeting or other scheduled meeting, as Petitioner was inconsistent with her testimony.

At the hearing, Petitioner initially stated that she did not attend her PATH appointment because of her medical conditions. Petitioner later testified that she did not attend the

PATH appointment because she did not receive the PATH Appointment Notice. Petitioner alleged that she also did not receive the Path Appointment Notice, Notice of Noncompliance and Notice of Case Action closing her case, despite the documents being mailed to her confirmed and correct mailing address. 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. There was no evidence that the Department had any of Petitioner's mail that was returned as undeliverable. Petitioner asserted that she was having problems and that she had reported the problems to the [REDACTED] in 2015 and to the Department in 2014. The Department was otherwise unaware of such problems at the time the current Notices were sent in January 2016, however, and Petitioner presented no documentation to establish that she reported her current mail problems to the Department or the Post Office.

Based on Petitioner's inconsistent testimony at the hearing, she has failed to present sufficient evidence to rebut the presumption that she received the PATH Appointment Notice, Notice of Noncompliance and Notice of Case Action mailed to her by the Department, as it was not established that the Department had any current knowledge of the alleged mail issues. In addition, the Petitioner's Hearing request was timely filed after the triage at which time she knew about her FIP case closure.

With respect to the Medical Needs form and Petitioner's assertion that she continued to be deferred from participation in PATH, the Medical Needs Form provided did not support a deferral, thus, the Department correctly determined that Petitioner must attend the PATH program as a condition of FIP eligibility. The Department is required to determine deferral eligibility at application and/ or redetermination, which was properly done in this case. Department policy found in BEM 230A provides: once a client claims a disability he/she must provide MDHHS with verification of the disability when requested. The verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant. BEM 230 A (October 1, 2015) p. 12. Petitioner's doctor's evaluation found her work ready with no limitations and that she could work at any job. (Exhibit A, pp. 12-13).

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**.



ZB/tlf

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**Zainab Baydoun**  
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

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