



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: April 11, 2016
MAHS Docket No.: 16-002461
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 07, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included the Petitioner's wife [REDACTED], and adult member of the benefit group. [REDACTED] (Eligibility Specialist) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Family Independence Manager) and [REDACTED] of Michigan Works.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction the Petitioner's Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner and his wife were ongoing Family Independence Program (FIP) recipients participating in the Partnership. Accountability. Training. Hope. (PATH) program as a condition of receiving FIP assistance.
2. The Petitioner and his wife were noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program when they failed to provide verification that they had completed their required assignments for the weeks of January 24, 2016, and January 31, 2016. Exhibit A, p 3.

3. On February 10, 2016, the Department sent the Petitioner a Notice of Noncompliance (DHS-2444). Exhibit A, p 6.
4. A triage meeting was held on February 18, 2016. Exhibit A, p 6.
5. On February 10, 2016, the Department notified the Petitioner that Family Independence Program (FIP) benefits would close effective March 1, 2016. Exhibit A, p 10.
6. On February 22, 2016, the Department received the Petitioner's request for a hearing protesting the sanctioning of his Family Independence Program (FIP) benefits. Exhibit A, p 13.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2015), p 1.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed. BEM 233A, p 7.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds includes doing any of the following without good cause:

- Failing or refusing to:
 - Provide legitimate documentation of work participation.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity. BEM 233A, pp 2-3.

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. A claim of good cause must be verified and documented for member adds and recipients. BEM 233A, p4.

Good cause includes:

- Unplanned Event or Factor: Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:
 - Domestic violence.
 - Health or safety risk.
 - Religion.
 - Homelessness.
 - Jail.
 - Hospitalization.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

The Department will determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if

the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp 9-10.

A Work Eligible Individual (WEI) and non-WEIs, who fail, 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. BEM 233A, p 1.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 3.

The Petitioner was an ongoing FIP recipient. Both the Petitioner and his wife were assigned to the PATH program as conditions of receiving cash assistance. Department records indicate that the Petitioner and his wife were noncompliant with the PATH program when they failed to provide the Department with verification that they had completed their required assignments for the weeks of January 24, 2016, and January 31, 2016. The Department conducted a triage meeting on February 18, 2016, where the Petitioner was given an opportunity to establish good cause for their noncompliance, and the Petitioner's wife participated in this meeting by telephone. The Department did not find good cause and sanctioned their FIP benefits as of March 1, 2016.

The Petitioner's wife did not dispute that the required participation logs were not submitted in a timely manner but argued that they had good cause for their noncompliance. The Petitioner's wife testified that they intended to submit their reports

electronically as they had in the past, but that their computer was not available during that period.

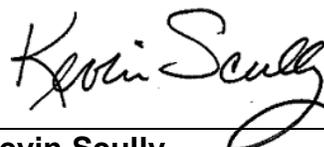
The Petitioner's wife argued that they had good cause for their noncompliance due to unplanned events. The Petitioner's wife testified that during the month of January of 2016 that they were forced to seek medical attention for their family resulting from unsafe lead in the drinking water at their home in Flint. The Petitioner's wife testified that they chose to seek medical attention outside Genesee County due to their mistrust of medical service providers in the Flint area. The Petitioner's wife testified that the time spent obtaining medical testing and treatment outside Genesee County was a barrier to her submitting timely reports of their completed assignments.

Department policy defines good cause as a valid reason for noncompliance that is based on factors that are beyond the control of the noncompliant person. This Administrative Law Judge finds that the Petitioner failed to establish good cause because the barriers to their compliance were not beyond their control. The Petitioner failed to establish that the Department would not accept their assignment logs not sent through their computer, or that there was no alternative means available to submit these assignment logs. Furthermore, the Petitioner failed to establish that the medical treatments for lead poisoning were a barrier to submitting the logs of their participation in the PATH program.

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 sanctioned the Petitioner's Family Independence Program (FIP) benefits effective March 1, 2016.

DECISION AND ORDER

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



KS/las

Kevin Scully
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]