



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 16, 2016
MAHS Docket No.: 15-026318
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 May 11, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (General Services Program Manager) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] [REDACTED] (Family Independence Specialist) and [REDACTED] (Michigan Works PATH Coordinator).

ISSUE

Did the Department of Health and Human Services (Department) properly sanction the Petitioner's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for noncompliance with the requirements of the Partnership. Accountability. Training. Hope. (PATH) program?

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 was an ongoing Food Assistance Program (FAP) and Family Independence Program (FIP) recipient.
2. The Petitioner was assigned to the Partnership. Accountability. Training. Hope. (PATH) program as a condition receiving her Family Independence Program (FIP) benefits.

3. On August 12, 2015, the Department found the Petitioner to be noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program for failing to attend an appointment on August 3, 2015, or submit her assignment logs. Exhibit A, p 10 – 11.
4. The Petitioner notified the Department that she was unable to attend the August 3, 2015, appointment due to her medical condition, and she was instructed to submit medical documentation. Exhibit A, p 35.
5. The Department scheduled a triage meeting for August 18, 2015.
6. On August 12, 2015, the Department notified the Petitioner that her Family Independence Program (FIP) would close on September 1, 2015, and that her monthly allotment of Food Assistance Program (FAP) benefits would decrease. Exhibit A, pp 29 – 33.
7. Department records indicate that the Petitioner's benefits were sanctioned for noncompliance without good cause from August 1, 2007, through October 31, 2007. Exhibit A, p 37.
8. On November 9, 2015, the Department received the Petitioner's request for a hearing protesting the sanctions on her Family Independence Program (FIP) and Food Assistance Program (FAP) benefits. Exhibit A, pp 3 – 10.

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.

The Department will not schedule a triage for instances of noncompliance while the FIP application is pending. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (May 1, 2015), p 9.

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 means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.
 - Appear for a scheduled appointment or meeting related to assigned 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 the following:

- Illness or Injury: The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.
- 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.

BEM 233A, pp 4-6.

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 and FAP recipient and the Department had referred her to the PATH program as a condition of receiving benefits. The Petitioner was scheduled to attend an appointment on August 3, 2015, where she would provide the Department with her assignment records with the PATH program. The Petitioner did not attend this appointment or provide the Department with records of her assignment completion. The Petitioner did notify the Department that she missed the August 3, 2015, appointment due to her medical condition. Department records indicate that the Petitioner was informed that she should submit medical documentation verifying the reasons she missed the August 3, 2015, appointment. The Petitioner did not submit her assignment logs or provide the Department with medical documentation by August 12, 2015, when the Department informed her that she was considered to be noncompliant with the PATH program.

A triage meeting was scheduled for August 18, 2015, where the Petitioner was given the opportunity to establish good cause for her noncompliance with the PATH program. The Petitioner did not attend this meeting, and the Department considered whether she had good cause based on the information available in its records. The Department was aware that the Petitioner had a medical condition, but had no information specifically excusing the Petitioner's failure to attend her August 3, 2015, appointment. The Department determined that the Petitioner did not have good cause for her noncompliance.

On August 12, 2015, the Department notified the Petitioner that her FIP benefits would close effective September 1, 2015, and her monthly allotment of FAP benefits would decrease based on her disqualification from the group.

The Petitioner testified that she had good cause due to her medical condition, which required her to take prescription medication with side effects that was a barrier to her compliance with the PATH program. The Petitioner testified that her caseworker with the PATH program led her to believe that her participation in the PATH program had been temporarily deferred. The Petitioner testified that her PATH program caseworker is not being truthful about the circumstances leading to the Department's determination that she was noncompliant.

It is not disputed that the Petitioner did not attend the August 3, 2015, appointment, or that she did not turn in her assignment logs by August 12, 2015. No evidence was presented that medical documentation excusing the Petitioner's absence from the August 3, 2015, appointment was available to the Department at the August 18, 2015,

triage meeting. The Department is required by BEM 233A to determine good cause based on the best information available during the triage meeting and prior to the negative action date. This Administrative Law Judge finds that the evidence on the record does not support a finding that the Petitioner had good cause for her failure to attend the August 3, 2015, appointment.

It is not within the authority of this Administrative Law Judge to make a determination with respect to the Petitioner's claims that her PATH program caseworker has not been truthful about the actions she took. A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

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) and Food Assistance Program (FAP) benefits for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

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]