



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 6, 2016
MAHS Docket No.: 16-002133
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 three way telephone hearing was held on May 5, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], 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. As a condition of receiving FIP benefits, [REDACTED], a household member of Petitioner's FIP group was required to participate in the PATH program.
3. On an unverified date, the Department notified [REDACTED] of a PATH appointment, the date of which was also unverified by the Department.

4. [REDACTED] did not attend his scheduled PATH appointment.
5. On an unverified date, the Department notified Petitioner that a triage will be held to discuss [REDACTED]' alleged noncompliance.
6. On an unverified date, the Department notified Petitioner that her FIP case would be closed effective February 1, 2016.
7. On or around January 19, 2016, a triage was held which [REDACTED] attended and provided the Department with documentation to verify good cause for his failure to attend the PATH appointment.
8. Petitioner's FIP case closed effective February 1, 2016.
9. On February 11, 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. 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 Department testified that [REDACTED] was initially placed in noncompliance with PATH because he failed to attend a scheduled PATH appointment. The Department did not present a PATH Appointment Notice, thus the date of the appointment was unverified. The Department did not identify when or if a Notice of Noncompliance was issued, however, the Department stated and Petitioner confirmed that a triage meeting was held on or around January 19, 2016. The Department testified that on or around January 11, 2016, it sent Petitioner a Notice of Case Action advising her of the intended FIP case closure effective February 1, 2016. The Department failed to present the Notice of Case Action for review at the hearing, so the exact date of the case closure and the reason for intended action was unverified.

The Department stated and Petitioner confirmed that at the triage, Petitioner and [REDACTED] presented documentation to establish that he had good cause for his failure to attend the PATH program. Despite being given good cause, the Department stated that Petitioner's FIP case closed on February 1, 2016. The Department testified that Petitioner's FIP case was subsequently reinstated and presented an eligibility summary to show that Petitioner received FIP benefits for February 2016, March 2016, and April 2016, ongoing. (Exhibit A). The Department testified that it sent Petitioner a Notice of Case Action on or around February 18, 2016, informing her that her FIP case was reinstated effective February 1, 2016, however, this Notice was also not presented for review at the hearing. Additionally, the Department failed to present documentation to establish that it removed the three month penalty that it stated was imposed on Petitioner's case. Thus, although the Department testified that it corrected the action Petitioner requested a hearing to dispute, the Department's testimony was not supported by any documentary evidence.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP case.

Petitioner provided some testimony to suggest that [REDACTED] was placed in noncompliance a second time and that she received a notice of case closure effective April 1, 2016. However, because Petitioner was notified of the case closure in March 2016, it is determined to be a negative action taken subsequent to her February 11, 2016, hearing request and thus was not addressed at the hearing. Petitioner was informed that she was entitled to submit a hearing request to dispute the subsequent action should she so choose.

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. Remove the sanction/penalty imposed on Petitioner's FIP case;
2. Reinstate Petitioner's FIP case effective February 1, 2016;
3. Issue FIP supplements to Petitioner from February 1, 2016, ongoing, for FIP benefits not already received, in accordance with Department policy; and
4. Notify Petitioner in writing of its decision.



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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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