



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: June 7, 2016
MAHS Docket No.: 16-005575
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. 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 June 2, 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], Hearing Facilitator and [REDACTED], Case Manager at [REDACTED].

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 or a group member 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, Petitioner was required to attend the PATH program and participate in job search/readiness activities at the [REDACTED].

3. On March 24, 2016, Petitioner attended the PATH program at ██████████ during which an incident occurred and Petitioner was alleged to have engaged in destructive and disrespectful behavior towards ██████████ staff. (Exhibit C)
4. A noncompliance triage meeting was scheduled for March 31, 2016, to discuss Petitioner's alleged noncompliance and destructive behavior, which Petitioner attended. (Exhibit C)
5. At the conclusion of the triage meeting on March 31, 2016, Petitioner was granted good cause, which was contingent on her being transferred to another location to participate and complete her PATH requirements. (Exhibit C)
6. Petitioner was instructed to attend an appointment on April 4, 2016, at 9:00 a.m. at the new PATH contractor facility Serco. (Exhibit C)
7. Petitioner did not attend the April 4, 2016, appointment and confirmed that she had knowledge of the appointment.
8. On April 19, 2016, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on April 25, 2016, to discuss whether good cause existed for the alleged noncompliance and her failure to attend the April 4, 2016, appointment. (Exhibit A)
9. On April 19, 2016, the Department sent Petitioner a Notice of Case Action informing her that the Department intended to close her FIP case effective June 1, 2016, because she or a group member 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 B)
10. A triage was held on April 25, 2016, which Petitioner attended. At the conclusion of the triage, the Department determined that Petitioner did not have good cause for her noncompliance and failure to attend the April 4, 2016, appointment. (Exhibit C)
11. On April 25, 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 because it determined during the triage held on March 31, 2016, that Petitioner had good cause for her noncompliance on March 24, 2016, it sent Petitioner back to PATH and she was instructed to attend an appointment at a new PATH location on April 4, 2016. See BEM 233A, p. 4. The Department stated that because Petitioner did not attend her scheduled appointment as instructed and

because the Department did not receive any communication from Petitioner concerning her inability to attend the April 4, 2016, appointment, Petitioner's FIP case was placed in noncompliance with work-related activities and a triage meeting was scheduled for April 25, 2016. At the triage, Petitioner informed the Department that she did not attend the appointment on April 4, 2016, because she was being put out of and evicted from her home. The Department determined that Petitioner did not have good cause for her failure to attend the appointment as she did not provide any documentation of the eviction. The Department initiated the closure of Petitioner's FIP case effective June 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.

At the hearing, Petitioner confirmed that she was aware of the appointment scheduled for April 4, 2016. Petitioner initially stated that she did not attend the appointment because she was being evicted from her home that day. Petitioner stated that she did not have a lease for her apartment and that she pays rent month to month. Petitioner testified that her landlord did not give her an eviction notice and that her belongings were put outside the home. It was unclear based on Petitioner's testimony if she was evicted on the April 4, 2016, appointment date or the April 25, 2016, triage appointment date, as she provided testimony regarding being evicted on both dates. Petitioner then stated that she didn't attend the appointment on April 4, 2016, because her daughter was sick and did not have child care. Petitioner also stated that she contacted the Department and PATH program on either April 3, 2016, or April 5, 2016, to inform them of her inability to attend the appointment due to her child being sick and was transferred to a supervisor to ask for a new date to attend orientation and was informed that she was already placed in noncompliance. At some point in the hearing, Petitioner also testified that on the day of the April 4, 2016, appointment she took the bus to [REDACTED] to drop her daughter off at a relative's house as the child was ill and child care would not take the child that day. Petitioner stated that she arrived at the appointment later in the afternoon and was informed that it was too late. Petitioner provided conflicting and inconsistent explanations throughout the hearing regarding her failure to attend the April 4, 2016, appointment. A review of the case notes for the relevant dates in this matter establishes that Petitioner's explanation concerning her child's illness, lack of child care and arriving late for the appointment coincides with her March 24, 2016, PATH appointment date and not the April 4, 2016, date at issue which caused the noncompliance. (Exhibit C).

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 the appointment on April 4, 2016, 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

Zainab A. 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

[REDACTED]

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