



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: July 20, 2016
MAHS Docket No.: 16-007863
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 July 14, 2016, from Lansing, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED] [REDACTED]

ISSUES

Did the Department properly close the Petitioner's Family Independence Program (FIP) for noncompliance with the Partnership, Accountability, Training, Hope (PATH) program?

Did the Department acted in accordance with this policy when denying the Petitioner's Application for State Emergency Relief 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 was an **ongoing recipient** of FIP benefits. Participation in Partnership, Accountability, Training, Hope (PATH) is an eligibility requirement for the Petitioner to receive benefits under these programs.
2. On April 1, 2016, the Petitioner was sent a PATH Appointment Notice (DHS-4785) which required PATH attendance beginning April 11, 2016. The deadline to extend this appointment was extended to April 18, 2016.

3. On April 20, 2016, a Notice of Case Action was issued to the Petitioner informing her that her FIP case would close on June 1, 2016 for failing to participate in employment and/or self-sufficiency-related activities.
4. On April 20, 2016, the Petitioner was also issued a Notice of Noncompliance informing the Petitioner that a triage meeting had been scheduled for April 26, 2016 at 8:30 AM to afford the Petitioner an opportunity to establish good cause for failing to attend her PATH appointment, as the Department now considered her to be noncompliant with employment and/or self-sufficiency related activities.
5. On April 26, 2016, the Petitioner **did not** participated in the scheduled triage meeting. The Department determined there was no good cause for the Petitioner's failure to participate in employment and/or self-sufficiency related activities.
6. On June 6, 2016, the Petitioner submitted a request for hearing.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Bridges Eligibility Manual (BEM) 233A Failure To Meet Employment and/or Self-Sufficiency Related Requirements: FIP, provides guidance for administration of the Partnership, Accountability, Training, Hope (PATH) program. The policy identifies participation requirements, actions that are noncompliant, the consequences of noncompliance, and the definition of good cause for noncompliance.

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.

- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
- Develop a Family Self-Sufficiency Plan (FSSP).
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

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.

The Department alleged that Petitioner was noncompliant because she did not attend PATH as assigned. The Petitioner does not dispute that she did not attend PATH, but testified that she did have childcare issues which prevented her from going. The Petitioner asserts she had good cause because she made the Department aware of her childcare issues, before her noncompliance. Furthermore, the Petitioner testified that she could not attend her triage/good cause appointment because she received notice of that appointment after it was over. The Hearing Facilitator at the hearing testified that there was a very good likelihood that the Petitioner did not receive notice of her triage flap good cause appointment in time to attend the appointment. The Hearing facilitator testified that this is because the mail is routed Royal Oak, Michigan.

Departmental policy requires that the Petitioner have an opportunity to establish good cause for her noncompliance to present closure of her case. Based on the testimony of both parties, and the case comments in evidence, this Administrative Law Judge concludes that the evidence establishes that the Petitioner was not given proper notice of her triage/good cause appointment, and was therefore not afforded an opportunity to establish good cause.

During the hearing, the Petitioner withdrew her hearing request for the SER issue, because she essentially needed the denial notice to obtain assistance elsewhere. As such, that portion of the Petitioner's hearing request is hereby dismissed.

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 took action to close the Petitioner's FIP case.

DECISION AND ORDER

Accordingly, the Department's decision regarding SER is **DISMISSED**. The Department's decision regarding FIP is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, INCLUDING MAILING A NEW ELIGIBILITY DETERMINATION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for FIP back to June 1, 2016, and
2. Issue the Petitioner any supplement she may thereafter be due, and
3. The Petitioner retains the right to request a hearing on the new eligibility determination.



SH/nr

Susanne E. Harris
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]

Petitioner

[REDACTED]