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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 8, 2016
MAHS Docket No.: 16-010880
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 31, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator; ██████████, Partnership.Accountability.Training.HOPE (PATH) coordinator; ██████████, PATH Contractor; and ██████████, PATH Quality Control Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits for failure to comply with employment-related activities?

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 who was required to participate in the PATH program as a condition of FIP eligibility.
2. Petitioner did not participate in the PATH program from June 13, 2016, to June 16, 2016, and from June 20, 2016, to June 24, 2016, (Exhibit D).
3. On June 27, 2016, the Department sent Petitioner (i) a Notice of Noncompliance notifying her that she had failed to comply with her PATH activities and scheduling a triage July 5, 2016, and (ii) a Notice of Case Action notifying her that her FIP

case was closing effective August 1, 2016, for a three-month minimum because she had failed to comply with her employment-related activities (Exhibits A and B).

4. Petitioner participated in the July 5, 2016, triage.
5. The Department concluded that Petitioner did not have good cause for her noncompliance.
6. On July 29, 2016, the Department received Petitioner's request for hearing disputing the Department's actions concerning her FIP, Medicaid (MA), and Child Development and Care (CDC) cases.

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).

Petitioner requested a hearing on July 29, 2016, disputing the Department's actions concerning her FIP, CDC, and MA cases. At the hearing, Petitioner testified that she no longer wished to have a hearing concerning her CDC and MA cases. Accordingly, Petitioner's July 29, 2016, hearing request concerning her CDC and MA cases is dismissed. The hearing proceeded to address the closure of Petitioner's FIP case.

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.

The June 27, 2016, Notice of Case Action notified Petitioner that her FIP case was closing because she had failed to comply with employment-related activities. As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear and participate with PATH or other employment service provider. BEM 233A, p. 2.

In this case, the Department alleges that Petitioner did not attend her job search/readiness class as required from June 13, 2016, to June 16, 2016, and from June 20, 2016, to June 24, 2016. Petitioner does not dispute that she did not attend class those days. Therefore, Petitioner was noncompliant with employment-related activities.

Before terminating a client from the work participation program and closing her FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. A noncompliance is excused if a client can establish good cause for the noncompliance. BEM 233A, p. 4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors that are beyond the control of the noncompliant person. BEM 233A, p. 4.

In this case, Petitioner participated in the triage, but the Department determined that she did not have good cause for her noncompliance. At the hearing, the Department acknowledged that on June 8, 2016, Petitioner had expressed concerns to ██████████, the PATH quality control manager, about her job readiness instructor, specifically that she felt sexually harassed by him. Although ██████████ encouraged her to file a formal complaint, Petitioner refused to do so and stated that she would continue to attend classes as assigned. After Petitioner returned to class on June 17, 2016, after missing classes from June 13, 2016, to June 16, 2016, ██████████ reassigned her to a new job readiness instructor. Petitioner acknowledged that she was assigned to a new job readiness instructor but testified that on the second day she went to the class, the instructor instructed her that she could not participate in the class and had to report to her case manager. According to Petitioner, her case manager informed her that she was in noncompliance with employment activities and would be triaged.

The Department disputed Petitioner's testimony that she had been notified that she could no longer participate in the PATH program with the new instructor. ██████████, the PATH contractor and senior case manager, testified that the new instructor had no authority to tell Petitioner that she could no longer participate in her class. ██████████, who supervised Petitioner's PATH case manager, also testified that she was not aware of either the new instructor or the case manager advising Petitioner that she could no longer attend the PATH program in the new instructor's class. ██████████ case notes from the July 5, 2016 triage indicate that Petitioner explained at the triage that her nonattendance after June 17, 2016 was due to her continued discomfort with her old job readiness instructor even after transferring to the new instructor but she admitted she did not advise ██████████ of this discomfort (Exhibit C). ██████████, who participated in the July 5, 2016, triage, testified that she first heard Petitioner's explanation that her new instructor had excluded her from her class at the prehearing conference.

The evidence presented by the PATH workers is sufficient to cast doubt on Petitioner's explanation of the circumstances surrounding her failure to attend PATH between June 20, 2016, through June 24, 2016, especially in light of the inconsistency between Petitioner's explanation for her nonattendance at the triage and her subsequent, differing explanation at the prehearing conference and at the hearing. Further, she gave no clear explanation of her failure to attend PATH between June 13, 2016 and June 16, 2016. Based on the evidence, it is found that the Department properly concluded that Petitioner lacked good cause for failing to attend the PATH program. Because Petitioner lacked good cause for her noncompliance, the Department acted in accordance with Department policy when it closed Petitioner's FIP case. The June 27,

2016 Notice of Case Action indicates that the closure is for a minimum three-month period, which is the penalty for a client's first incident of FIP noncompliance. See BEM 233A, p. 8.

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 closed Petitioner's FIP case for a three-month minimum for failure to comply with employment-related activities without good cause.

DECISION AND ORDER

Based on Petitioner's testimony that she did not wish to proceed with a hearing concerning her CDC and MA cases, Petitioner's July 29, 2016, hearing request concerning her CDC and MA cases is **DISMISSED**.

The Department's FIP decision is **AFFIRMED**.



ACE/tlf

Alice C. Elkin

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

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Petitioner

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Via email

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