



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: October 7, 2016
MAHS Docket No.: 16-012112
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager. A witness, [REDACTED], Program Manager, Resource Network, also appeared.

ISSUE

1. Did the Department properly close and sanction the Petitioner's Family Independence Program (FIP) Cash Assistance for failure to comply with employment related activities?
2. Did the Department properly reduce Petitioner's Food Assistance Program (FAP) due to 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. The Petitioner was a recipient of FAP benefits and FIP cash assistance benefits.
2. The Petitioner was assigned to attend the Partnership.Accountability.Training.HOPE. (PATH) program and was participating in the program.

3. While attending the PATH program and taking a training class to become a Certified Nurse's Aide (CNA), the Petitioner was involved in an altercation with another student in the class.
4. The Petitioner was reassigned to do job search and to take an anger management class as a result of the altercation.
5. Thereafter the Petitioner was discharged from the PATH program due to disruptive/abusive behavior while at the PATH Program Office.
6. The Petitioner was sent a Notice of Noncompliance on [REDACTED], which scheduled a triage to be conducted [REDACTED]. The Notice of Noncompliance indicated that the Petitioner was in noncompliance due to direct disruptive/abusive behavior on [REDACTED]. Exhibit 1.
7. The Petitioner did not appear at the triage, and the Department found that there was no good cause for her disruptive/abusive behavior at the triage.
8. On [REDACTED], the Department issued a Notice of Case Action advising the Petitioner that her FIP cash assistance benefits were closed effective [REDACTED] and that her FAP was decreased effective [REDACTED]. Exhibit 2.
9. The Petitioner's FIP cash assistance closed because for the second time the Petitioner failed to properly participate in employment and self-sufficiency related activities. The Notice advised the Petitioner that she would not receive FIP cash assistance from [REDACTED].
10. The Petitioner's FAP was decreased, and the Petitioner was removed from the FAP group because she failed to participate in an employment and/or self-sufficiency related activity without good cause. The Petitioner's FAP benefits were reduced from [REDACTED]. Exhibit 2.
11. The Petitioner requested a timely hearing on [REDACTED].

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.

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.

In this case, The Department closed the Petitioner's FIP cash assistance case and reduced the Petitioner's FAP due to her alleged noncompliance with the PATH program requirements without good cause. The Department issued a Notice of Case Action on [REDACTED], taking these actions effective [REDACTED]. Exhibit 2. The Department has alleged that the Petitioner's behavior on [REDACTED], was disruptive and abusive when she appeared at the PATH program offices after being advised not to show up there and that she could present her case at the triage. Notwithstanding these instructions, the Petitioner showed up at the PATH program offices and became disruptive and demanded to see a supervisor. The PATH Program called the [REDACTED] Police Department, and the Petitioner was removed from the PATH office premises. A police report was filed. Exhibit 3.

By way of history, the Petitioner was earlier in [REDACTED] removed from a CNA training program when she had an altercation with another program participant during a class. The Petitioner was given a second chance and was assigned to do job search so that she would not have contact with the other program participant or be disruptive during class time. The Petitioner then began to do job search. After completing her job search on [REDACTED], the Petitioner became disruptive and involved in an argument with the other program participant who she had previously been disruptive with. Exhibit 2. The current sanction was imposed due to the Petitioner's new disruptive conduct, which resulted when she appeared at the PATH office after being told that she was discharged from the program and would be given a triage and to not come to the office, or the police would be called. Thereafter, the Petitioner was given a triage date and did not appear at the triage. A triage was conducted and the Petitioner was found in noncompliance for disruptive behavior without good cause.

At the hearing, the Petitioner disputed many of the facts presented by the Department and at times presented inconsistent testimony. Nonetheless, it is clear that due to the Petitioner's behavior, the [REDACTED] Police were called and had to escort the Petitioner from the premises on [REDACTED], when she refused to leave. It is also clear that the Petitioner was told that she was not to appear at the PATH office after a telephone conversation with the Program Manager after the incident that day where Petitioner had renewed contact with the student she was disruptive with in the first incident. Exhibit 3. The Department provided a police report as part of the evidence presented. Exhibit 3.

The Department conducted a triage in this case and found that there was no good cause presented. Department policy provides that if the client does not provide a good

cause reason for the noncompliance, the Department is allowed to determine good cause based on the best information available. BEM 233A, p. 13.

At the hearing, the Department provided several signed statements from various witnesses and PATH program employees, as well as, the Police Report, which established disruptive behavior by the Petitioner. Exhibit 3. One of the statements was from an eyewitness on the date of the incident. The statement reads as follows: "I witnessed [REDACTED] attempting to assault a student attending [REDACTED] program on this date. I heard verbal threats coming from [REDACTED]. I witnessed her aggressively charge across the street in an attempt to physically assault [REDACTED]. At that point, I advised [REDACTED] that she had already been removed from the school and was told not to return to [REDACTED]. I also informed all the students to get back in their class and asked [REDACTED] to go back to the main parking lot office across the street where her car was parked." The report also notes that the [REDACTED] Police Department was called as a result of the incident when the Petitioner reappeared at the PATH Office. The Petitioner was escorted off the premises by the police and was not arrested.

Based upon the evidence presented, it is determined that the Department properly determined that the Petitioner was in noncompliance with the PATH program requirements regarding disruptive behavior towards individuals in the PATH program, including an employee of the Program. The Department correctly determined after a triage that the Petitioner had no good cause for her noncompliance, and thus, properly closed the Petitioner's FIP case and reduced the Petitioner's FAP benefits by removing the Petitioner from the group and imposing sixth-month sanctions.

The [REDACTED], 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 (May 2015), p. 1. BEM 233A, p. 2.

Department policy provides as regards FIP cash assistance the following:

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- 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.

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:**

- **Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.** BEM 233A, p. 2-3.

In this case, the Department imposed a penalty of six months as this was the Petitioner's second noncompliance with work-related activities without good cause due to her disruptive behavior at the Program offices:

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction. BEM 233A, p. 8.

The Petitioner also protested the Department's sanction imposed regarding the reduction in her FAP benefits. The Department explained that Petitioner's FAP benefits decreased because she was removed from the FAP group because of her FIP-related employment noncompliance as a result of the Department's finding noncompliance with program requirements without good cause. As regards FAP benefits, the Department policy provides that Clients active in FIP and FAP who become noncompliant with a cash program requirement without good cause are subject to an FAP penalty unless the client is eligible for an FIP deferral outlined in BEM 230A or an FAP deferral reason of care of a child under six or education. BEM 233B (July 2013), pp. 1-2.

The client is disqualified as an FAP group member for noncompliance when all of the following exist: (i) the client was active for both FIP and FAP on the date of the FIP noncompliance; (ii) the client did not comply with the FIP employment requirements; (iii) the client is subject to a penalty on the FIP program; (iv) the client is not deferred from FAP work requirements; and (v) the client did not have good cause for the noncompliance. BEM 233B, p. 3. For the second occurrence of FAP noncompliance, the client is disqualified from the FAP group for six months or until the client

reestablishes FAP eligibility in accordance with policy, whichever is longer. BEM 233B, pp. 6, 10-12.

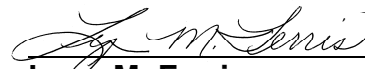
In this case, because Petitioner is found to have failed to comply with FIP-employment-related activities without good cause and does not meet the criteria for an FIP or FAP deferral, she is a disqualified member of her FAP group. Therefore, the Department properly removed her from her FAP group.

DECISION AND ORDER

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 and sanctioned Petitioner's FIP case and reduced her FAP benefits due to disruptive behavior and properly imposed a six-month sanction.

Accordingly, the Department's decision is **AFFIRMED**.

LMF/jaf



Lynn M. Ferris
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]

Via email

[REDACTED]