



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: November 29, 2016
MAHS Docket No.: 16-015896
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 November 23, 2016, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED] [REDACTED] and Family Independence Specialist [REDACTED] [REDACTED].

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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. Petitioner was an on-going FIP recipient.
2. On August 11, 2016, the Department mailed to Petitioner a FAST Referred Notice (Exhibit 1 Pages 8-9) which required him to complete a Family Automated Screening Tool within 30 days, and a Family Self-Sufficiency Plan within 90 days.
3. Petitioner did not complete the FAST within 30 days, and on September 10, 2016, the Department mailed a Notice of Noncompliance (Page 10) which scheduled him

for a triage appointment on September 21, 2016, at which time he could show good cause for not completing the FAST.

4. A Notice of Case Action was mailed on September 10, 2016, (Pages 4-7) closing Petitioner's FIP effective October 1, 2016, because he had not completed the FAST.
5. Petitioner did not attend the triage.
6. On October 24, 2016, the Department received Petitioner's hearing request, protesting the closure of his FIP.

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 PATH program requirements including education and training opportunities are found in BEM 229 (10/1/15). "Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits." BEM 229 p. 6. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A (10/1/15) p. 1 and BEM 233A (4/1/16) p. 1. "If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A." BEM 230A, p. 22. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with MDHHS or PATH. **Good cause must be considered even if the client does not attend**, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.” BEM 233A p 11 (4/1/16). (Emphasis in original.)

Per BEM 233A, p. 4-7 “good cause for non-compliance” is based on factors beyond control of the client. Some circumstances that are considered “good cause” are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. “If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH.” *Id.*

The critical issue here is whether Petitioner established good cause for non-compliance prior to the end of the negative action period. Petitioner did not attend the triage or call the Department to explain why he had not completed the FAST. During the hearing, Petitioner said at first that he did not receive the FAST notice, and later said that he received the FAST notice in the mail. He also said that he did not receive the triage notice. His explanation for not completing the FAST was that he “was on a bunch of meds.”

In this case, Petitioner should have completed the FAST. When he did not do that, he should have shown up for the triage and explained why he did not complete the FAST. Since he did not show up for the triage, or even offer an explanation via telephone or email prior to the negative action period, the Department understandably found him to be in non-compliance. Because he was non-compliant, he did not meet the eligibility criteria for continued FIP assistance.

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 Petitioner’s FIP and subjected him to a three month closure sanction.

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

DJ/mc



Darryl Johnson
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]