



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: December 2, 2016
MAHS Docket No.: 16-015582
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 Specialist; and [REDACTED], Partnership.Accountability.Training.Hope (PATH) Coordinator. [REDACTED] Case Manager, Development Centers; [REDACTED] Job Developer, Development Centers; also appeared as witnesses for the Department.

ISSUE

Did the Department properly process the Petitioner's Family Independence Program (FIP) case and Child Development and Care (CDC) application pursuant to the triage held on [REDACTED]?

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 had been attending the PATH program beginning [REDACTED].
2. The Petitioner received a noncompliance warning on [REDACTED], due to being "no call, no show" for job search.

3. A re-engagement meeting was scheduled for [REDACTED], at [REDACTED]; and she did not attend.
4. A Notice of Noncompliance was sent to Petitioner on [REDACTED], to attend a triage on [REDACTED] Exhibit C.
5. A triage was held on [REDACTED] and was attended by the Petitioner. The Petitioner was given good cause due to having no child care and agreed to fulfill certain tasks. Petitioner agreed to apply for CDC; Petitioner also was required to apply for a job opportunity as a cashier at [REDACTED] across from the PATH office. Petitioner was also directed to apply at [REDACTED] and report the results to the PATH program. Exhibit B.
6. The Department issued a Notice of Case Action on [REDACTED], closing the Petitioner's FIP cash assistance case, effective [REDACTED], for failure to participate in employment and or self-sufficiency-related activities. Exhibit D.
7. The Department's [REDACTED], Notice of Case Action also imposed a second sanction for noncompliance with PATH requirements. Exhibit D.
8. The Petitioner requested a timely hearing on [REDACTED], protesting the closure denial of her FIP case.

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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, the Department held a triage; and as a result of the triage, the Petitioner was given good cause because she had no daycare for her [REDACTED] child. In addition, the Petitioner, as part of the triage meeting, was required by the PATH Program and the Department representative present to apply for a job at [REDACTED] and [REDACTED] and report the results back to a PATH Development Center employee for Job Development. The Petitioner testified that she applied for daycare and also applied for the [REDACTED] job. It also appears that the [REDACTED] job was inappropriate due to the 10- or 12-hour days necessary for this employer. The Department presented no evidence that it reinstated the Petitioner's FIP case after the triage and removed the sanction. Clearly because she was given good cause, the Petitioner was no longer subject to the sanction or removed from the PATH program after the triage on [REDACTED]. Thereafter, the Petitioner requested a hearing on [REDACTED], due to her belief that her FIP was going to close again, after the triage, even though she was given good cause. The evidence presented established that there was a lack of communication between the Petitioner and her caseworker who she could not reach and the fact that the Petitioner also had problems with mail due to her living situation which was in transition.

The only issue at this time which can be addressed is whether the Department reinstated the Petitioner's FIP case, (i.e. whether the negative action was deleted) as a result of the triage outcome where she was given good cause and whether the outcome of the triage complied with Department policy. Unfortunately, the case presentation at the hearing was that the Petitioner allegedly did not comply with the terms of the triage outcome; and therefore, she was no longer in a good cause status. This issue was not properly before the undersigned as such situation would require a new notice of noncompliance. It was not clear at the hearing whether the Petitioner's CDC application, filed after the triage, had been denied at the time of Petitioner's [REDACTED] hearing request.

MDHHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. **The goal is to bring the client into compliance.** BEM 233A, (April 4, 2016), p. 1, emphasis supplied.

Department policy further provides:

If it is determined during triage the client has good cause, **and good cause issues have been resolved**, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period. BEM 233A (April 1, 2016), p. 4.

If the client establishes good cause within the negative action period, reinstate benefits; see *Good Cause for Noncompliance* in this item. Send the client back to PATH, if applicable, **after resolving transportation, CDC, or other factors which may have contributed to the good cause.** Make any changes/corrections in Bridges to reflect the outcome of the noncompliance. BEM 233A, p. 13

Exception: **Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens.** BEM 233 A, p. 3

In this case the Department did not resolve CDC issues before sending the Petitioner back to PATH as required by Department policy. In addition, in light of the Petitioner's testimony that she was being asked to leave her present housing situation, the Department should also have reviewed the Petitioner's housing status, which was apparently not reviewed or discussed as a barrier at the triage. Department policy provides:

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following: Homelessness BEM 233A, p. 6.

Instead of allowing the Petitioner to resolve the child care issues, the Department told the Petitioner to apply for several jobs and apply for CDC. The evidence did establish that the Petitioner did apply for CDC and was completing the process to have her son complete a physical exam so he was eligible to be admitted to daycare. At the time of the hearing, it was unclear whether Petitioner's current CDC application had been denied as well. Under these circumstances, the Department was not entitled to also require the Petitioner at the same time apply for several positions, one of which was not appropriate due to work hours required for an individual with a child in daycare. Based upon the evidence presented the Department did not meet its burden of proof to establish that it followed Department policy in imposing requirements that Petitioner apply for jobs when she had no daycare assistance and further did not address the barrier of homelessness. The Department further failed to demonstrate that it reinstated the Petitioner's FIP case and properly removed any sanction for failure to comply and participate with work-related activities.

DECISION AND ORDER

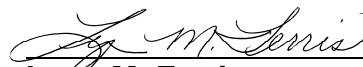
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not reinstate the Petitioner's FIP case and remove the Petitioner's second sanction for failure to participate in work-related activities.

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

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

1. The Department shall reinstate the Petitioner's FIP cash assistance, if not already reinstated, and process the Petitioner's CDC application.
2. The Department shall remove the sanction, if any sanction was imposed as a result of the triage held in this case on [REDACTED] or the Notice of Case Action dated [REDACTED].
3. The Department shall issue an FIP supplement to the Petitioner for FIP benefits she is entitled to receive in accordance with Department policy.

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]

[REDACTED]