



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 20, 2016
MAHS Docket No.: 16-004662
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on May 16, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with [REDACTED], her Living Together Partner (LTP) and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator and [REDACTED], Case Manager from Midwest Career Center.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case and impose a three month FIP sanction on the basis that she or a group member failed to participate in employment and/or self-sufficiency related activities without good cause?

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.
2. Petitioner was not required to participate in the PATH work program.

3. Petitioner's LTP, [REDACTED], a mandatory FIP group member was required to participate in the PATH work program, as his previous employment had ended. (Exhibit C)
4. On or around February 5, 2016, [REDACTED] attended a reengagement meeting during which he agreed to participate in the PATH program and to engage in job search activities. (Exhibit C)
5. [REDACTED] was instructed to attend a job interview appointment with [REDACTED] on February 9, 2016, at 10:00 a.m. (Exhibit C)
6. [REDACTED] failed to attend the job interview at [REDACTED].
7. [REDACTED] did not contact the Department or his PATH worker regarding his inability to attend the job interview prior to February 9, 2016.
8. On February 10, 2016, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on February 18, 2016, to discuss whether good cause existed for the alleged noncompliance. (Exhibit A)
9. On February 10, 2016, the Department sent Petitioner a Notice of Case Action informing her that the Department intended to close her FIP case effective March 1, 2016, because she or a group member failed to participate in employment and/or self-sufficiency-related activities without good cause. The Notice informed Petitioner that the FIP case will be closed for at least three months. (Exhibit B)
10. On February 18, 2016, a triage was held in Petitioner and [REDACTED] absence. At the conclusion of the triage, the Department determined that Petitioner did not have good cause for her noncompliance. (Exhibit C)
11. Petitioner's FIP case closed effective March 1, 2016.
12. On March 28, 2016, Petitioner requested a hearing disputing the Department's actions and the closure 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.

As a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (May 2015), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider; failing or refusing to appear for a scheduled appointment or meeting related to assigned activities; failing to provide legitimate documentation of work participation; failing to participate in a required activity; and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6. BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A, pp. 9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (October 2015). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In the present case, the Department testified that because [REDACTED] did not attend his scheduled job interview as instructed and because the Department did not receive any communication from Petitioner or [REDACTED] concerning his inability to attend the job interview, Petitioner’s FIP case was placed in noncompliance with work-related activities and a triage meeting scheduled for February 18, 2016. At the triage, the Department determined that [REDACTED] did not have good cause for his failure to attend the job interview and initiated the closure of Petitioner’s FIP case effective March 1, 2016,

imposing a three month sanction for the first occurrence of noncompliance. The Department notified Petitioner of the case closure by sending her a Notice of Case Action.

At the hearing, ██████████ confirmed that he was aware of the job interview scheduled for February 9, 2016, and testified that he did not attend the job interview because he did not have any transportation. ██████████ further confirmed that he did not contact the Department or his PATH worker regarding his inability to attend the job interview and did not notify anyone prior to the interview that he needed assistance with transportation. ██████████ stated that the Department had provided him with bus tickets in the past to attend previous appointments but stated that he could not call the Department prior to February 9, 2016, because he did not have any minutes on his phone. ██████████ stated that he contacted his PATH worker on February 10, 2016, and was informed that he would be placed in noncompliance.

Petitioner and ██████████ testified that they did not attend the triage meeting scheduled for February 18, 2016, because they did not receive the Notice of Noncompliance advising of the triage meeting date. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). A review of the Notice of Noncompliance establishes that it was sent to Petitioner at her confirmed mailing address. While Petitioner indicated that she had problems with receiving mail and that sometimes mail was received late, Petitioner confirmed receiving the Notice of Case Action advising of the case closure. Thus, based on Petitioner's testimony at the hearing, she has not presented sufficient evidence to rebut the presumption that she received the Notice of Noncompliance.

Notwithstanding Petitioner's testimony that she did not receive the triage meeting notice, the triage was conducted in Petitioner and ██████████ absence and the Department found no good cause for the noncompliance. Because Petitioner did not establish that prior to the triage and negative action date, she or ██████████ provided the Department with a sufficient good cause explanation for his failure to attend the February 9, 2016, job interview, 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 determined that ██████████ was noncompliant with work related activities without good cause, closed Petitioner's FIP case and imposed a three month sanction.

DECISION AND ORDER

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



ZB/tlf

Zainab Baydoun
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

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