



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: September 15, 2016
MAHS Docket No.: 16-011086
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. 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 telephone hearing was held on September 8, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Case Manager.

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 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 fulfilling her PATH participation requirements through her employment at [REDACTED].
3. Petitioner's employment at [REDACTED] ended in late June 2016, which she timely reported to the Department. Petitioner also informed the Department that she had a potential job offer at [REDACTED]. (Exhibit E)

4. On an unverified date, the Department verbally informed Petitioner that she was required to submit job search logs. The Department did not identify the due date for which Petitioner was to submit the job search logs.
5. The evidence established that Petitioner's employment at [REDACTED] began on or around July 3, 2016.
6. The Department verbally instructed Petitioner to provide proof of her new employment. The Department did not send Petitioner a verification checklist or similar request for verification advising her of the due date to submit proof of her new employment at [REDACTED].
7. The Department asserted that Petitioner failed to submit proof of her job search logs but could not identify for which week she failed to comply with the requirement.
8. A reengagement meeting was scheduled for July 18, 2016; however, the Department failed to establish that Petitioner was properly notified of the meeting. (Exhibit E)
9. On July 19, 2016, the Department sent Petitioner a Notice of Noncompliance advising her that she was noncompliant with employment related activities because she missed an appointment/meeting. The Notice of Noncompliance instructed Petitioner to attend a triage meeting on July 28, 2016, to discuss whether she had good cause for her alleged noncompliance. (Exhibit A)
10. On July 19, 2016, the Department sent Petitioner a Notice of Case Action informing her that the Department intended to close her FIP case effective September 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 beginning September 1, 2016. (Exhibit C)
11. A triage was conducted in Petitioner's absence and the Department determined that Petitioner did not have good cause for her failure to attend the reengagement meeting and failure to verify her income. (Exhibit B)
12. On August 1, 2016, Petitioner requested a hearing disputing the Department's actions.

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 (April 2016), pp. 1-2. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program (PATH) 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.

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 name of the noncompliant individual; the date(s) of the noncompliance; the reason the client was determined to be noncompliant; the penalty duration; and the scheduled triage appointment. BEM 233A, pp. 10-12. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (April 2016). 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. 9-12.

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. 9-12. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13. Good cause is determined using the best information available during the triage and prior to the negative action date. BEM 233A, p. 10-12. 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 this case, the Department testified that Petitioner was meeting her PATH participation requirements through her employment at [REDACTED]. The Department testified and Petitioner confirmed that she notified the Department of her change in employment and that she was starting new employment at [REDACTED]. The Department stated that Petitioner was verbally instructed to either submit proof of her new employment at [REDACTED] or submit job search logs. It was established that neither the PATH program nor the Department notified Petitioner of the due date to submit the documentation and the Department did not identify a due date during the hearing.

The Department also stated that Petitioner was sent an appointment notice to attend a reengagement meeting on July 18, 2016, and that Petitioner failed to appear for her scheduled meeting. Petitioner disputed being notified of the reengagement meeting and the Department failed to present the appointment notice for review, thus, the Department's testimony that it notified Petitioner in writing of the July 18, 2016, meeting was unsupported by the evidence. Additionally, a representative from the PATH program was not present for the hearing to provide any additional details regarding the processing of Petitioner's case and her alleged noncompliance with PATH requirements.

The Department stated that because Petitioner failed to appear for the reengagement meeting, it sent her a Notice of Noncompliance scheduling a triage appointment for July 28, 2016. (Exhibit A). The Department testified that Petitioner failed to appear for the triage meeting and it determined that she did not have good cause for her noncompliance of failing to attend the reengagement meeting. Petitioner testified that she did not attend the triage meeting because she was working that day. Petitioner stated that she spoke with her Department case worker about submitting proof of her new employment. Petitioner further stated that she was aware that she had to submit proof of her employment; however, she was never notified of the due date. The Department testified that prior to the FIP case closure and in connection with a verification checklist sent to Petitioner on August 5, 2016, it timely received proof of Petitioner's employment verifying that she began working at [REDACTED] on or around July 3, 2016.

Under the facts in this case, where the Department: failed to establish that Petitioner was properly instructed to submit verification of her new employment; failed to establish that Petitioner failed to submit job search logs as required and for which specified time period; and failed to establish that Petitioner was notified of the July 18, 2016, reengagement meeting that she did not attend, the Department did not establish that Petitioner was noncompliant with employment related activities without good cause.

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 when it determined that Petitioner 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 **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. Remove the employment sanction/penalty imposed on Petitioner's FIP case;
2. Reinstate Petitioner's FIP case effective September 1, 2016;
3. Issue FIP supplements to Petitioner from September 1, 2016, ongoing, in accordance with Department policy; and
4. Notify Petitioner in writing of its decision.

ZB/tlf



Zainab A. 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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Email:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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