



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.: 16-012027
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.

ISSUE

Did the Department properly close the Petitioner's Family Independence Program (FIP) Cash Assistance case for failure to participate in the Partnership.Accountability.Training.HOPE. (PATH) employment and training program?

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 an ongoing recipient of FIP cash assistance benefits and was attending the PATH program.
2. The Petitioner was required to provide the Department records of her school attendance of 20 hours weekly, as well as, participate in 20 hours of employment in order to comply with and meet PATH program requirements.
3. A Notice of Noncompliance was sent to the Petitioner on [REDACTED], advising the Petitioner that she failed to attend a meeting; and a triage was scheduled to be conducted [REDACTED]. The Notice of Noncompliance was sent to the Petitioner at the correct address. Exhibit 2.

4. After a triage conducted by the Department with the PATH program, the Department issued a Notice of Case Action dated [REDACTED], advising the Petitioner that her cash assistance program closed effective [REDACTED], because she failed to participate in employment-related activities or quit a job or was fired without good cause. The Department closed her FIP case for three months from [REDACTED], and imposed a first sanction for noncompliance without good cause. Exhibit 7.
5. A second Notice of Case Action was issued [REDACTED], closing the Petitioner's FIP case effective [REDACTED], for the same reasons set forth in the earlier notice referenced above as Exhibit 7. Exhibit 9.
6. The Petitioner met with the PATH program on [REDACTED]. At that meeting, the PATH program representative determined that earning statements did not meet required hours for the PATH program. In addition, education logs for Petitioner's school attendance were submitted covering through [REDACTED], and that no recent education logs and recent earning statements were provided. At this meeting, the Petitioner advised the PATH Program that she lost her job because the car she had was not working. The Petitioner was advised to provide her last pay statement the PATH program, and provide school logs through [REDACTED], in order to avoid noncompliance.
7. The Department did not receive the requested information by [REDACTED] for either Petitioner's education logs or earnings statement.
8. The Department issued a Notice of Noncompliance on [REDACTED], scheduling the triage. A triage was held, and the Petitioner attended. After the triage, it was determined there was no good cause presented; and the Petitioner's FIP cash assistance case closed.
9. The Petitioner requested a timely hearing on [REDACTED], protesting 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.

In this case, the Department, after holding a triage which the Petitioner attended, found that the Petitioner failed to establish good cause for her failure to report her loss of employment and failure to provide school attendance records as part of her PATH participation requirements.

The Petitioner lost her job because her car broke down causing her to be terminated from employment because she did not to report for work. The Petitioner lost her job due to lack of transportation and failure to report for work. The Petitioner lost her employment in [REDACTED] but did not report the loss of employment to the Department until her meeting with the PATH program on [REDACTED]. Recipients of benefits are required to report changes in circumstances that potentially affect eligibility or benefit amount which would include loss of employment which must be reported within 10 days of becoming aware of the change. BAM 105, (October 1, 2016), p. 11.

Notwithstanding, she failed to report her loss of employment; the Department allowed the Petitioner an additional week to provide her final paystub or pay statement. In addition, as part of Petitioner's PATH Program requirements, the Petitioner was to present her school participation records on a weekly basis to the PATH Program. At the [REDACTED], meeting, the Petitioner was again given one week to update her school logs to [REDACTED]. On [REDACTED], the PATH Program did not receive a final paystub; and the Petitioner did not provide the requested school logs. The Petitioner testified that the school logs were requested but were unavailable on [REDACTED]. The Petitioner never advised the PATH Program until the triage that she was having difficulties obtaining her school participation logs. The Petitioner now seeks to have her sanction removed and challenges the Department's finding of noncompliance without good cause reviewed.

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 2016) p. 1

FIP

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:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).

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:

- Failing or refusing to:
- Provide legitimate documentation of work participation.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. BEM 233A p.3

In this case, the Petitioner was terminated from her employment because she failed to report to her job due to transportation issues.

A client may demonstrate good cause to avoid a finding that they failed to comply with PATH requirements.

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. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments.

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.

Good cause includes the following:

No Transportation

The client requested transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A, p. 6.

In this case, the evidence showed that this good cause basis was not met as the Petitioner never requested transportation services or bus tickets. In addition, the evidence presented demonstrated that the Petitioner did not provide her school attendance records as required. At the hearing, the Petitioner contended that she brought her school attendance records to the triage; however, the evidence presented by the Department by way of PATH Program case notes clearly required that the school records be provided by [REDACTED], not on [REDACTED].

Based upon the evidence presented, the Department has demonstrated that it correctly found that the Petitioner had no good cause for her failure to meet PATH program participation requirements. In accordance with Department policy, the Department imposed a three-month sanction due to lack of good cause. The penalty for noncompliance without good cause is FIP EDG closure. Effective [REDACTED], 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. BEM 233A, p.8.

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 found that the Petitioner had no good cause for her failure to meet PATH program participation requirements. In accordance with Department policy, the Department correctly imposed a three-month closure sanction due to lack of good cause.

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]