



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: December 6, 2016
MAHS Docket No.: 16-016565
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 December 1, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on Petitioner's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly reduced Petitioner's Food Assistance Program (FAP) benefits based on Petitioner's failure 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 and FAP benefits.
2. Petitioner had been deferred from the Partnership. Accountability. Training. Hope. (PATH) program due to a medical disability determination.

3. On August 9, 2016, the Medical Review Team (MRT) denied Petitioner's deferral request. Exhibit A, pp. 5-11.
4. Because Petitioner's deferral ended, the Department sent Petitioner a PATH Appointment Notice on September 30, 2016, informing her to attend a PATH appointment on October 11, 2016. Exhibit A, p. 12.
5. Petitioner failed to attend the PATH appointment.
6. On October 19, 2016, the Department sent Petitioner a Notice of Case Action (DHS-1605) closing Petitioner's FIP case, effective December 1, 2016, based on a failure to participate in employment and/or self-sufficiency related activities without good cause (first sanction). Exhibit A, pp. 17-18.
7. On October 19, 2016, the Notice of Case Action also notified Petitioner that her FAP benefits were reduced effective December 1, 2016, to the amount of [REDACTED] because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 17-18.
8. On October 19, 2016, the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on October 27, 2016. Exhibit A, pp. 15-16.
9. On October 27, 2016, Petitioner attended the triage appointment; however, the Department found no good cause for Petitioner's failure to attend an employment and/or self-sufficiency related activities.
10. On October 31, 2016, Petitioner filed a hearing request, disputing the Department's action. See Exhibit A, pp. 2-3.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a

and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

FIP benefits

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (April 2016), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider, participate in employment and/or self-sufficiency-related activities etc...See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, comparable work, long commute or clients not penalized. BEM 233A, pp. 4-7.

In this case, Petitioner had been deferred from the PATH program during her MRT medical disability determination. Exhibit A, p. 1. On August 9, 2016, MRT denied Petitioner's deferral request. Exhibit A, pp. 5-11. Because Petitioner's deferral ended, the Department sent Petitioner a PATH Appointment Notice on September 30, 2016, informing her to attend a PATH appointment on October 11, 2016. Exhibit A, p. 12. However, Petitioner failed to attend the PATH appointment. As such, the Department scheduled a triage on October 27, 2016, in order to discuss the noncompliance and good cause. Exhibit A, pp. 15-16.

On October 27, 2016, Petitioner attended the triage appointment and stated to the Department why she was unable to attend. The Department testified that Petitioner informed it that she could not take the bus due to not knowing where the PATH program was located. After hearing Petitioner's explanation, the Department found no good cause for Petitioner's failure to attend the appointment and she found was to be in noncompliance.

In response, Petitioner argued and/or asserted the following: (i) she wishes that her FAP and FIP benefits not be closed; (ii) she cannot work due to her medical conditions; and (iii) she acknowledged that at triage she explained for the first time that she could not attend because she would get lost, does know how to get to the PATH location, and does not know how to take the bus.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective December 1, 2016, in accordance with Department policy.

First, the evidence established that Petitioner was in non-compliance with the PATH program because she failed to attend her PATH appointment scheduled for October 11, 2016. Exhibit A, p. 12 and BEM 233A, pp. 2-3 (failed to participate in employment and/or self-sufficiency-related activities).

Second, the undersigned Administrative Law Judge (ALJ) finds that Petitioner failed to present any good cause reason for her non-compliance. Petitioner argued that she has medical conditions that prevents her from working and/or attending the PATH program. However, MRT denied her medical disability claim and found her work ready with limitations for the PATH program. Exhibit A, pp. 5-11 and 14. Petitioner failed to present any medical documents supporting her assertion that she is unable to participate in the PATH program and/or a good cause reason for her inability to attend the PATH appointment. BEM 230A, p. 15 and BEM 233A, p. 6.

Additionally, Petitioner's main good cause reason was that she did not know where the PATH location was and she did not know how to use the bus system as transportation. The undersigned ALJ does find Petitioner's good cause claim credible nor does it meet any of the good cause reasons. BEM 233A, pp. 4-6. The PATH Appointment Notice clearly provides Petitioner with the date, time, and location of where she is supposed to attend the appointment. Exhibit A, p. 12. Moreover, Petitioner testified that she first notified the Department of these issues at triage as to why she could not attend. This means that the Department was unable to assist Petitioner because she failed to notify the Department of her transportation issues prior to the scheduled appointment. Nevertheless, the undersigned ALJ finds that the evidence established that Petitioner failed to present a good cause reason for her non-compliance. See BEM 233A, pp. 4-6.

Accordingly, the Department acted in accordance with Department policy when it found Petitioner in non-compliance with the PATH program and closed her benefits effective December 1, 2016.

FAP benefits

Based on the above FIP analysis, the Department acted in accordance with Department policy when it found that Petitioner failed to comply with employment-related activities without good cause and sanctioned Petitioner's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 1. Because the Department properly closed Petitioner's FIP case, it properly reduced Petitioner's FAP benefits by excluding her as a disqualified member of her FAP group. BEM 233B (July 2013), pp. 6-12.

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 (i) properly closed Petitioner's FIP benefits effective December 1, 2016; and (ii) properly reduced Petitioner's FAP benefits by excluding her as a disqualified member of her FAP group effective December 1, 2016.

Accordingly, the Department's FAP and FIP decision is **AFFIRMED**.

EF/tm



Eric J. Feldman

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]

[REDACTED]

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

CC:

[REDACTED]
[REDACTED]
[REDACTED]