



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: January 13, 2017
MAHS Docket No.: 16-017764

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 January 5, 2017, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager and [REDACTED], Casemanager.

ISSUE

Did the Department properly close the Petitioner's Family Independence Program (FIP) case because she failed to comply with PATH deferral requirements?

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 a recipient of PATH, but was deferred which required her to sign a FSSP on October 25, 2016 and participate in 2 required activities of doctor appointments and the library. Department Exhibit 1, pg. 2.
2. On October 25, 2016, the Department Caseworker made a notation in the case log that the Petitioner completed a FSSP contract and chose doctor and library visits only where 5 activities were required a week. Department Exhibit 1, pg. 9.
3. On November 9, 2016, the Petitioner submitted her weekly log that she confirmed that she was at the library for her required 5 hours. Department Exhibit 1, pg. 3.

4. On November 9, 2016, the Department Caseworker sent the Petitioner a Notice of Noncompliance, DHS 2444 that she failed to participate in a required activity with a triage scheduled on November 16, 2016 at 2 p.m. for a second noncompliance with FIP where her case would close for 6 months. Department exhibit 1, pgs. 4-5.
5. On November 9, 2016, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605 that her FIP case would close on December 1, 2016 because she failed to verify library activities. Department exhibit 1, pgs. 6-8.
6. On November 16, 2016, the Department Caseworker cited in the case log that the Petitioner attended her triage, but did not provide any proofs of good cause for Week 10/30 through 11/015 where she returned her weekly log showing 5 activities at the library, but when the Department Caseworker called the number it was not library. The Department Caseworker stated that the Petitioner was aware that her activities had to be verified and she had done a contract in the past with her and was aware of the requirements. The Petitioner wanted the Department Caseworker to forget about this week, but she was informed that she was not in compliance and did not have good cause. Department Exhibit 1, pg. 9.
7. On November 16, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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 Petitioner was a recipient of PATH, but was deferred which required her to sign a FSSP on October 25, 2016 and participate in 2 required activities of doctor appointments and the library. Department Exhibit 1, pg. 2. On October 25, 2016, the Department Caseworker made a notation in the case log that the Petitioner completed a FSSP contract and chose doctor and library visits only where 5 activities were required a week. Department Exhibit 1, pg. 9. On November 9, 2016, the Petitioner submitted her weekly log that she confirmed that she was at the library for her required 5 hours. Department Exhibit 1, pg. 3.

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triage scheduled on November 16, 2016 at 2 p.m. for a second noncompliance with FIP where her case would close for 6 months. Department exhibit 1, pgs. 4-5. On November 9, 2016, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605 that her FIP case would close on December 1, 2016 because she failed to verify library activities. Department exhibit 1, pgs. 6-8. On November 16, 2016, the Department Caseworker cited in the case log that the Petitioner attended her triage, but did not provide any proofs of good cause for Week 10/30 through 11/015 where she returned her weekly log showing 5 activities at the library, but when the Department Caseworker called the number it was not library. The Department Caseworker stated that the Petitioner was aware that her activities had to be verified and she had done a contract in the past with her and was aware of the requirements. The Petitioner wanted the Department Caseworker to forget about this week, but she was informed that she was not in compliance and did not have good cause. Department Exhibit 1, pg. 9. On November 16, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 130, 220, and 600. BEM 209, 210, 218, 228, 229, 230A-C, 233A-C, 515, 518, and 519.

During the hearing, the Petitioner stated that the Department Caseworker did not tell her that she couldn't verify that she went to the [REDACTED]. She stated that she went back to the [REDACTED], but no one would verify that she was there and she did not check any books out. The Department Caseworker told her that she could get her attendance verified at [REDACTED] for the required verification needed. The Petitioner stated that she did not say that when she signed the form. The Department Caseworker stated that she tells all of her clients that. The burden is on the Department and the contract does not say that nor does the Department Caseworker's case comment confirm that the Petitioner was informed at the signing of the contract. The fact that she participated before would have been persuasive, but the written documentation was not submitted by the Department. This was the first week that she submitted a log to the Department Caseworker. If there were problems, she should have been giving an opportunity to correct her actions with the Department documenting the steps that they took to make the requirements clear.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's FIP case because she did not provide a log with the appropriate verification, but did not give her an opportunity to comply with documented corrective action.

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 of

initiating of a redetermination of the Petitioner's eligibility for FIP and erase the noncompliance sanction dated November 16, 2016.

Carmen G. Fahie

Carmen G. Fahie

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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