



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: March 17, 2017  
MAHS Docket No.: 17-000851  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

### **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 February 28, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by General Services Program Manager [REDACTED] [REDACTED] and Family Independence Specialist [REDACTED]  
[REDACTED]

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On June 30, 2016, Petitioner applied for FIP and Food Assistance Program (FAP) benefits (Exhibit A, Pages 8-27).
2. On June 16, 2016, Petitioner's doctor verified that she was unable to work (Page 31) at any job.
3. On September 12, 2016, the Department mailed a Quick Note (Page 34), along with a Medical Social Questionnaire (Pages 35-38) which Petitioner completed and returned on September 13, 2016.

4. Petitioner's documentation was forwarded to the Medical Review Team (MRT), and the MRT issued a decision (Pages 45-52) in which it found Petitioner was "capable of performing other work."
5. A PATH Appointment Notice (Page 53) was mailed on December 5, 2017, instructing Petitioner that she needed to appear at the Michigan Works Agency on December 12, 2016, at 9:00 AM.
6. Petitioner did not attend the PATH appointment.
7. On December 24, 2016, the Department mailed a Notice of Case Action (Pages 54-57), informing her that her FIP would be closing as of February 1, 2017, because of her failure to participate in PATH. On that same date, it mailed a Notice of Noncompliance (Pages 58-59), advising her the FIP would be closing for six months because this was her second instance of non-compliance with program requirements. It notified her that she was scheduled for a "triage" appointment on January 4, 2017, at 1:30 PM.
8. During the triage, the Department found Petitioner had not shown good cause for her failure to attend PATH because she had not provided any updated medical records to show that she could not participate.
9. Petitioner testified that she did not attend the PATH appointment because she could not work.
10. On January 4, 2017, the Department received Petitioner's hearing request, protesting the closure of her FIP.

### **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 PATH program requirements including education and training opportunities are found in BEM 229 (10/1/15). "Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits." BEM 229 p. 6. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to

penalties. BEM 230A (10/1/15) p. 1 and BEM 233A (4/1/16) p. 1. "If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A." BEM 230A, p. 22. When a FAP recipient is non-compliant, BEM 233B (7/1/13) p. 2 establishes several consequences.

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

"Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the MDHHS or PATH." BEM 233A p 12 (4/1/16).

Per BEM 233A, p. 4, "good cause for non-compliance" are based on factors beyond control of the client. Some circumstances that are considered "good cause" are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. "If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH." *Id.*

The critical issue here is whether Petitioner established good cause for non-compliance prior to the end of the negative action period. Petitioner testified that she was not able to work, but it was her responsibility to convince the Department during the triage meeting that she had good cause. Although she submitted a statement from her doctor that she could not work, the MRT found that she was capable of performing other work. She did not provide any updated medical information to show the MRT decision was no longer correct. She was not excused from PATH participation.

It is possible that the Department could have found Petitioner had established good cause for non-compliance, if only she had attended the triage. But, since she did not attend the triage, she did not provide an explanation, and the Department properly found that she had not established good cause prior to the effective date of the negative action. Even at the subsequent triage, she failed to show that she had good cause for her non-compliance. Consequently, she was properly subject to a disqualification.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who

refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties.

“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.

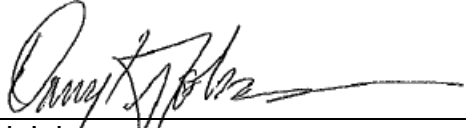
The evidence establishes that this is her second instance of noncompliance. She was sanctioned previously for a similar situation: she did not go to the Michigan Works Agency when she was supposed to. The penalty period is mandatory if a client fails, without good cause, to participate in employment or self-sufficiency-related activities.

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 Petitioner failed to comply with the training requirements and closed her FIP for six months.

### **DECISION AND ORDER**

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

DJ/nr

  
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Darryl Johnson  
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]