



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: March 16, 2017
MAHS Docket No.: 17-001260
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 Hearings Facilitator [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. Petitioner was an on-going FIP recipient.
2. On December 7, 2016, the Michigan Works Agency (MWA) sent Petitioner a Noncompliance Warning Notice (Exhibit A, Page 3), warning her that she was not meeting program requirements, and scheduling an appointment for her on December 13, 2016 to show good cause for her non-compliance.
3. Petitioner did not appear for the December 13 meeting, and a triage meeting notice (Pages 4-5) was mailed on December 14, 2016, scheduling a triage appointment for December 21, 2016 with the Department. Petitioner was warned that failure to comply could result in closure of her FIP.

4. On December 19, 2014, the Department received a fax (Pages 8-9) which was a Medical Needs form signed by a doctor on October 19, 2016 and presumably again on December 16, 2016, stating Petitioner could not work at her usual occupation for 90 days or more. The form did not indicate that she had any problems standing, sitting, or walking.
5. Petitioner did not attend the triage appointment.
6. In a Notice of Case Action (Pages 14-17) the Department informed Petitioner that her FIP would be closed as of January 1, 2017 because she did not comply with program requirements.
7. The Department scheduled her again for triage for January 18, 2017, and Petitioner appeared for that meeting. At that time, she explained that she did not get the earlier notice in the mail because she was staying at a different address than where her mail was going; her vehicle stopped working; her phone was shut off. She could not get to her mailbox for two weeks, and she stayed with her mother from December 19, 2016 to January 3, 2017, while her children were on winter break.
8. During the January 18, 2017 triage, the Department found Petitioner had not shown good cause for her prior non-compliance.
9. The Department received Petitioner's hearing request on January 18, 2017, 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 living in Greenville, Michigan, with her mother from December 19 to January 3. She also said that her phone had run out of minutes, and her vehicle was not working. Lack of transportation can be considered good cause for not participating in PATH, but it was her responsibility to convince the Department during the triage meeting that she had good cause. However, she did not explain her failure to participate in PATH during the week of November 27, 2016. According to case notes (Page 10) she was given a 31-day bus pass on December 1, 2016. During the week of November 23, 2016, she had only documented 12 JSJR (believed to be Job Search/Job Retraining) hours, and during the week of November 30, 2016, she documented only 7 JSJR hours. On November 10, 2016, she had been assigned the responsibility of completing up to 40 hours in the PATH program, and she was to “punch daily and complete job logs until employment or volunteering starts.” Although she submitted a statement from her doctor that she could not perform her usual job, she was still capable of sitting, standing, and walking. 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.

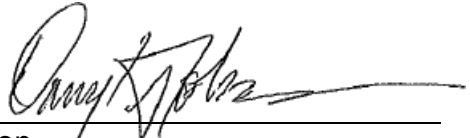
The evidence establishes that this is her first instance of noncompliance. The penalty period is mandatory if a client fails, without good cause, to participate in employment or self-sufficiency-related activities.

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 three months.

DECISION AND ORDER

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

DJ/nr



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

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