



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: August 10, 2017
MAHS Docket No.: 17-008248
Agency No.: ██████████
Petitioner: ██████████

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; 42 CFR 438.400 to 438.424; 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 ██████████, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Hearings Facilitator; ██████████ ██████████, Family Independence Specialist; and ██████████, Case Manager from Dearborn - ACCESS.

ISSUE

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?

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 benefits.
2. Petitioner had a medical deferral from the Partnership.Accountability.Training.Hope. (PATH) program.
3. On or around ██████████, the Disability Determination Service (DDS)/Medical Review Team (MRT) denied Petitioner's deferral request from the PATH program.
4. Because Petitioner's deferral request was denied, she must participate in the PATH program.

5. On [REDACTED], the Department sent Petitioner a PATH Appointment Notice informing her to attend a PATH appointment on [REDACTED]. [Exhibit A, p. 7.]
6. Petitioner attended her appointment on [REDACTED], but was informed during the appointment that she must attend her initial meeting appointment the following day, [REDACTED].
7. Petitioner failed to attend her initial meeting appointment for [REDACTED]. [Exhibit A, p. 9.]
8. On [REDACTED], [REDACTED] from the [REDACTED] – ACCESS (PATH program) called the phone number on file for Petitioner in attempt to contact her but was informed this was the wrong number. [Exhibit A, p. 9.]
9. On [REDACTED], the PATH program sent Petitioner a Noncompliance Warning Notice, informing to her to attend a re-engagement appointment for [REDACTED]. [Exhibit A, p. 9.]
10. Petitioner failed to attend her re-engagement appointment for [REDACTED]. [Exhibit A, p. 9.]
11. On or about [REDACTED], because Petitioner has no participation and failed to attend her appointment to re-engage in an activity, the PATH program requested a triage. [Exhibit A, p. 9.]
12. On [REDACTED], the Department sent Petitioner a Notice of Case Action closing Petitioner's FIP case, effective [REDACTED], based on a failure to participate in employment and/or self-sufficiency related activities without good cause (third sanction/lifetime disqualification). [Exhibit A, pp. 11-14.]
13. On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, pp. 6 and 8.]
14. On [REDACTED], Petitioner failed to attend the triage appointment; however, the Department still reviewed Petitioner's case and found no good cause for her failure to attend an employment and/or self-sufficiency related activities.
15. On [REDACTED], Petitioner contacted the Department in which the following was documented: (i) she left her home because both of her sons were not allowed to be around one another; (ii) she failed to get her mail from the home; (iii) the Department caseworker informed her the Department sent the verifications out to her timely, and she failed to contact the Department about not being able to attend her triage; and (iv) Petitioner also stated her daughter was sexually assaulted. [Exhibit A, p. 9.]
16. On [REDACTED], Petitioner filed a hearing request, disputing the Department's action and provided additional documentation. [Exhibit A, pp. 2-5 and 17-19.]

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.

As a preliminary matter, Petitioner requested in her hearing request for her hearing to be held in-person. [Exhibit A, p. 4.] The undersigned Administrative Law Judge (ALJ) inquired from Petitioner if she would still like her hearing to be in-person to which she declined and waived her in-person hearing request. Thus, the hearing proceeded as a telephone hearing.

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, provide legitimate documentation of work participation, 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, client 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 was deferred from the PATH program; however, on or around [REDACTED], DDS/MRT denied Petitioner's deferral request from the PATH program. Because Petitioner's deferral request was denied, the Department sent Petitioner a PATH Appointment Notice on [REDACTED], informing her to attend a PATH appointment on [REDACTED]. [Exhibit A, p. 7.] Petitioner attended her

appointment on [REDACTED], but the Department testified that she was informed during the appointment that she must attend her initial meeting appointment the following day, [REDACTED]. Petitioner failed to attend her initial meeting appointment for [REDACTED] [Exhibit A, p. 9.] On [REDACTED], [REDACTED] testified that she attempted to call Petitioner, but to no avail. [Exhibit A, p. 9.] On [REDACTED], the PATH program sent Petitioner a Noncompliance Warning Notice, informing her to attend a re-engagement appointment for [REDACTED]. [Exhibit A, p. 9.] Petitioner failed to attend her re-engagement appointment for [REDACTED]. [Exhibit A, p. 9.] On or about [REDACTED], because Petitioner has no participation and failed to attend her appointment to re-engage in an activity, the PATH program requested a triage. [Exhibit A, p. 9.]

On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, pp. 6 and 8.] On [REDACTED], Petitioner failed to attend the triage appointment; however, the Department still reviewed Petitioner's case and found no good cause for her failure to attend an employment and/or self-sufficiency related activities. On [REDACTED], Petitioner contacted the Department in which the following was documented: (i) she left her home because both of her sons were not allowed to be around one another; (ii) she failed to get her mail from the home; (iii) the Department caseworker informed her the Department sent the verifications out to her timely, and she failed to contact the Department about not being able to attend her triage; and (iv) Petitioner also stated her daughter was sexually assaulted. [Exhibit A, p. 9.] The Department also informed Petitioner could request a hearing to dispute the closure. [Exhibit A, p. 9.] In sum, the Department argues that the third sanction should remain because of her failure to participate in employment and/or self-sufficiency related activities without good cause.

In response, Petitioner testified that she was unaware on the [REDACTED] [REDACTED] [REDACTED], appointment being informed that she must attend her initial meeting appointment the following day, [REDACTED]. As to her failing to attend her re-engagement appointment and triage, she testified that she did not get the mail timely informing her that she had to attend those appointments. She testified the "[REDACTED]" is the correct mailing address for her; however, her mother and/or brother would take the mail from the home and not hand her mail timely, which included the Department's correspondence; thus, she was unaware of her appointments until after the dates. She testified that she had family/personal issues, including her sons and daughter; she slept in another home to protect her youngest son from her oldest son (Exhibit A, p. 3.), and suffering from depression due to her family issues, which contributed to her not being able to attend. Despite her sleeping in another home, Petitioner acknowledged that the Archdale address was the proper mailing address. Also, Petitioner appeared to include documentation of her family member's alleged sexual assault and an accident report, which she submitted to the Department on [REDACTED] and [REDACTED], (which is the same date as the hearing request). [Exhibit A, pp. 16-19.]

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective [REDACTED] [REDACTED] [REDACTED], ongoing, in accordance with Department policy.

First, the evidence established that Petitioner was in noncompliance with the PATH program because of her failure to attend the initial meeting appointment and her failure to attend the re-engagement appointment. [Exhibit A, p. 9, and BEM 233A, pp. 2-3.] Petitioner claimed she did not recall that she was informed during the orientation appointment that she must attend her initial meeting appointment the following day. However, the undersigned does not find Petitioner's testimony credible. Instead, the Department/PATH program provided credible testimony that Petitioner was informed she must attend this appointment the following date. The Department's/PATH program's credibility is supported by the case notes that document her failure to attend her initial meeting appointment, which to the undersigned, bolsters the Department/PATH program claim that Petitioner was informed to attend her initial meeting appointment. [Exhibit A, p. 9.] Furthermore, the Department provided credible evidence showing the PATH program mailed her a Noncompliance Warning Notice in order to attend her re-engagement appointment, which she failed to do. [Exhibit A, p. 9.] As such, the Department has established by a preponderance of evidence that Petitioner failed to attend her initial meeting appointment and her failure to attend the re-engagement appointment, resulting in her being in non-compliance with the PATH program. BEM 233A, pp. 2-3.

Second, the undersigned finds that Petitioner failed to present any good cause reason for her noncompliance. In regards to Petitioner's failure to attend the initial meeting appointment, the undersigned, as shown above, did not find her testimony credible that she did not recall being informed that she must attend the appointment during her orientation. As such, the evidence presented that Petitioner did not provide a sufficient good cause reason for her noncompliance of not attending the initial meeting appointment. BEM 233A, pp. 4-7.

Additionally, Petitioner claimed family/personal issues, sleeping in another home to protect her youngest son from her oldest son (Exhibit A, p. 3.), and her mother and brother holding her mailing from the [REDACTED] address, which included the Department's correspondence, as contributing factors that led to her not being able to attend her re-engagement appointment and triage meeting. Good cause includes an illness or injury and unplanned event or factor. BEM 233A, pp. 5-6. However, policy also states that a claim of good cause must be verified and documented for member adds and recipients. BEM 233A, p. 4. At the time of the noncompliance and triage, Petitioner failed to provide any documentation and/or verification for her good cause claim. However, on [REDACTED], and [REDACTED], she did provide documentation concerning her family member's alleged sexual assault and an accident report. [Exhibit A, pp. 17-19.] But, Petitioner did not expand on the meaning of this documentation during the hearing and how these documents prevented her from attending the initial appointment meeting, reengagement meeting, and triage. Petitioner failed to provide sufficient testimony demonstrating how the documentation she provided was a valid good cause claim. In fact, Petitioner failed to call the Department initially to inform it about her good cause claims. It was until after her triage date that she contacted the Department on [REDACTED] [REDACTED] [Exhibit A, p. 9.] Instead, the PATH program attempted to call Petitioner regarding her failure to attend the initial appointment date, but to no avail. [Exhibit A, p. 9. And finally, Petitioner's main argument appears to be not receiving her mail on-time because her family members held it; however again, she should have called the


Department of this issue. The Department/PATH program properly mailed its correspondence to Petitioner's mailing address, which she acknowledged was correct, and she failed to attend her scheduled appointments. In sum, the evidence presented that Petitioner did not provide a sufficient good cause reason for the noncompliance. BEM 233A, pp. 4-7. As such, the Department acted in accordance with Department policy when it closed Petitioner's FIP case for a third sanction/lifetime disqualification. BEM 233A, p. 1.

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 properly closed Petitioner's FIP benefits for a third sanction/lifetime disqualification effective [REDACTED].

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

EJF/jaf



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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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