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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 11, 2017
MAHS Docket No.: 17-008960
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; ██████████ Partnership.Accountability.Training.Hope. (PATH) Coordinator; and ██████████, Case Manager from ██████████ - ACCESS.

ISSUES

1. 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?
2. 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 group size was two, which included herself and her [REDACTED]-year-old minor child.
3. Petitioner was participating in the PATH program, and she must complete [REDACTED] hours per week of participation in PATH activities, such as education logs and job search logs. [Exhibit A, pp. 1 and 12-15; and Exhibit B, pp. 1-21.]
4. For the week of [REDACTED], Petitioner met her [REDACTED] hours of participation in PATH activities, which consisted of [REDACTED] hours of her education log and [REDACTED] hours for a job interview. [Exhibit B, pp. 7-9.]
5. For the week of [REDACTED], Petitioner met her [REDACTED] hours of participation in PATH activities, which consisted of [REDACTED] hours of her education log. [Exhibit B, pp. 10-13.]
6. For the week of [REDACTED], Petitioner only obtained [REDACTED] hours of participation, which consisted of education logs. [Exhibit B, pp. 14-16.]
7. For the week of [REDACTED], Petitioner only obtained [REDACTED] hours of participation, which consisted of education logs. [Exhibit B, pp. 17-19.]
8. Petitioner failed to meet her [REDACTED] hours of PATH participation for the weeks of [REDACTED], and [REDACTED].
9. On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, pp. 16-17.]
10. 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 (first sanction). [Exhibit A, pp. 7-8.]
11. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were reduced effective [REDACTED], to the amount of \$[REDACTED] because she failed to participate in employment and/or self-sufficiency related activities without good cause. [Exhibit C, pp. 1-3.]
12. On [REDACTED], Petitioner attended the triage appointment; however, the Department found no good cause for her failure to participate in employment and/or self-sufficiency related activities. [Exhibit B, p. 1.]
13. On [REDACTED], Petitioner filed a hearing request, disputing the Department's action. [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, provide legitimate documentation of work participation, participate in required activity, 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 required to complete [REDACTED] hours per week of participation in PATH activities, such as education logs and job search logs. [Exhibit A, pp. 1 and 12-15; and Exhibit B, pp. 1-21.] For the week of [REDACTED], Petitioner

met her 30 hours of participation in PATH activities, which consisted of ■ hours of her education log and ■ hours for a job interview. [Exhibit B, pp. 7-9.] For the week of ■, Petitioner met her ■ hours of participation in PATH activities, which consisted of ■ hours of her education log. [Exhibit B, pp. 10-13.] For the week of ■, Petitioner only obtained ■-hours of participation, which consisted of education logs. [Exhibit B, pp. 14-16.] The Department argued that she failed to meet her required hours for this week. The education log is broken down into two sections: (i) actual hours of participation; and (ii) supervised study time. [Exhibit B, p. 14.] For the week of ■ her hours consisted of ■ hours of actual hours of participation and ■ hours of supervised study, which was signed by an administrator. [Exhibit B, p. 14.] A review of the form indicated that on ■ under the actual hours of participation, it stated “absent” and ■ hours. [Exhibit B, p. 14.]

Additionally, for the week of ■, Petitioner only obtained ■ hours of participation, which consisted of education logs. [Exhibit B, pp. 17-19.] The Department argued that she failed to meet her required hours for this week. For the week of ■, her hours consisted of ■ hours of actual hours of participation and ■ hours of supervised study, which was signed by an administrator. [Exhibit B, p. 17.] A review of the form indicated that on ■, under the actual hours of participation, it stated “absent” and zero hours. [Exhibit B, p. 17.]

As a result of these two weeks, the Department argued that she failed to meet her required ■ hours of participation. The Department indicated that it did not have any verification of other hours, i.e., job search, for those two weeks in order for her to make her ■ hours of participation.

In response, Petitioner argued that she has met her ■ hours of participation. She argued that she did meet her ■ hours for the weeks of ■. She testified that in the education logs where it stated “absent” and provided no hours of participation, this was where she did show up for class; and the teacher was absent. [Exhibit B, pp. 14 and 17.] Thus, she testified that because the teacher was absent, she instead did study time for that time. She was unsure why the administrator did not include six hours of study time for those days the teacher was absent. Petitioner did not provide any documentation showing that the days marked absent for the weeks of ■, and ■, should have been study time.

WEIs are FIP participants who count in the state and/or federal work participation rate. BEM 228 (October 2015), p. 3. All WEIs are required to participate in work-related activities (core or non-core) for a minimum number of hours based on case circumstances unless reasonable accommodations are required and other activities are planned. BEM 228, p. 3.

Activities are specific actions the participant will take to reach the goal(s) and meet PATH requirements. BEM 228, p. 11. Activities are divided into three categories: core, non-core and other. BEM 228, p. 11. Core activities include unsubsidized employment, subsidized private and public sector employment, work experience, on-the-job training,

job search/job readiness, community service programs, vocational educational training (including condensed vocational training), and providing child care for a community service participant. BEM 228, pp. 11-12. Non-core activities are only countable when the minimum number of core activities have been planned. BEM 228, p. 13. Non-core activities include the following: job skills training directly related to employment; education directly related to employment; or high school completion/GED. BEM 228, p. 13. Other activities are family strengthening activities that may support efforts made toward self-sufficiency and are not counted toward federal participation requirements. BEM 228, p. 13.

Required hours are the minimum number of hours per week on average the WEI is to participate in work-related activities to meet the federal work participation requirement. BEM 228, p. 14. A FIP group containing only one WEI parent when the youngest child in the group is six years old or greater is required to do 30 hour weekly requirements, which is the category Petitioner fell within. BEM 228, pp. 14-15.

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

First, the evidence established that Petitioner was in noncompliance with the PATH program because she failed to meet her [REDACTED] hours of participation in the PATH program for the weeks of [REDACTED], and [REDACTED]. [Exhibit B, pp. 14-21.] Policy does state that a FIP group containing only one WEI parent when the youngest child in the group is six years old or greater, which is the category Petitioner fell within, is required to do [REDACTED]-hour-weekly requirements. BEM 228, pp. 14-15. Petitioner claimed that for those [REDACTED] weeks she should have been credited [REDACTED] hours of study time for dates it was marked absent. [Exhibit B, pp. 14 and 17.] However, a review of the education log shows that she only completed [REDACTED] hours total of activity those weeks. [Exhibit B, pp. 14 and 17.] The form is signed by the individual verifying her participation at the school and that individual did not indicate she conducted study time on the dates it was marked her absent. Petitioner did not provide any other documentation showing that the days marked absent for the weeks of [REDACTED], and [REDACTED], should have been study time. Furthermore, Petitioner did not provide any other proof showing that she conducted other activities, such as job search logs, to meet the remaining [REDACTED] hours of participation she was required to do. Instead, the Department provided credible evidence showing that she only conducted [REDACTED] hours of PATH participation for the weeks of [REDACTED], and [REDACTED], which is below the 30 hours that she is required to do per policy. BEM 228, pp. 14-15. As a result, Petitioner was in noncompliance 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. As shown above, Petitioner's good because claim was the error conducted on the education logs for the [REDACTED] weeks at issue. Policy states 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. In this case, though, Petitioner failed to

provide any verification or documentation showing that the education logs were improper. In sum, Petitioner failed to verify a good cause reason for her noncompliance for the weeks of [REDACTED], and [REDACTED]. See BEM 233A, pp. 4-7.

Accordingly, the Department acted in accordance with Department policy when it found Petitioner in noncompliance with the PATH program and closed her FIP benefits for her first sanction (three months) effective [REDACTED]. BEM 233A, p. 1.

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 (i) the Department acted in accordance with Department policy when it properly closed Petitioner's FIP benefits effective [REDACTED], (first sanction – three months); and (ii) the Department properly reduced Petitioner's FAP benefits by excluding her as a disqualified member of her FAP group effective [REDACTED].

Accordingly, the Department's FAP and 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]

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