



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 15, 2017
MAHS Docket No.: 17-006845
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. The hearing was originally scheduled for June 22, 2017. On July 27, 2017, Petitioner's request for a hearing was dismissed, but on August 8, 2017, the dismissal was vacated. On August 24, 2017, Petitioner's request for a hearing was dismissed, but on August 30, 2017, the dismissal was vacated. After due notice, telephone hearing was held on September 12, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Family Independence Program (FIP) benefits for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program?

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 Family Independence Program (FIP) recipient.
2. Petitioner was noncompliant with the Partnership. Accountability. Training. Hope. (PATH) when she failed to submit verification that she had completed any Partnership. Accountability. Training. Hope. (PATH) programing from April 23, 2017, through May 10, 207. Exhibit 5.
3. On May 10, 2017, the Department sent Petitioner a Notice of Noncompliance (DHS-244) with notice that a triage meeting would be held on May 18, 2017. Exhibit 1.

4. On May 10, 2017, the Department notified Petitioner that her Family Independence Program (FIP) benefits were pended to close effective June 1, 2017. Exhibit 2.
5. A triage meeting was held on May 18, 2017. Exhibit 3.
6. On May 18, 2017, the Department received Petitioner's request for a hearing protesting the sanction on her benefits for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2015), p 1.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed. BEM 233A, p 7.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.
 - Comply with activities assigned on the FSSP.
 - Provide legitimate documentation of work participation.

BEM 233A, pp 2-3.

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. A claim of good cause must be verified and documented for member adds and recipients. BEM 233A, p4.

Good cause includes the following:

- Employed 40 Hours: The person is working at least 40 hours per week on average and earning at least state minimum wage.
- No Child Care: The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.
 - Appropriate. The care is appropriate to the child's age, disabilities and other conditions.
 - Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.
 - Suitable provider. The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
 - Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.

BEM 233A, pp 4-6.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

The Department will determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp 9-10.

A Work Eligible Individual (WEI) and non-WEIs, who fail, 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 Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 3.

Petitioner was an ongoing FIP recipient when she failed to submit verification that she had completed any PATH programming from April 23, 2017, through May 10, 2017. Petitioner had been completing her requirements for the PATH programming through employment. Petitioner did not dispute that she had quit her employment and no evidence was presented on the record that Petitioner made up for these missing hours of activity by other means such as searching for new employment.

A triage meeting was held on May 18, 2017, where Petitioner was given the opportunity to establish good cause for her noncompliance with PATH. Petitioner participated in the triage meeting but the Department did not find good cause. Petitioner's FIP benefits were pended to close effective June 1, 2017.

Petitioner testified that she quit her job because her employer failed to pay her in a timely manner and that he quit when she finally did receive the paychecks she was entitled to.

This Administrative Law Judge finds that Petitioner was required to participate in employment and/or self-sufficiency related activities as a condition of receiving FIP benefits. A dispute with her former employer over the timeliness of her paychecks does not amount of good cause as defined in BEM 233A.

Petitioner argued that a lack of child care was a barrier to her reengagement with the PATH program after she quit her job because she did not have adequate child care.

Petitioner did not require additional child care while she was working and her children were in school. When she quit her job and her children were on break from school, Petitioner had a need for additional child care.

The Department credibly determined that a lack of child care was not a barrier to Petitioner's participation in the PATH program that was beyond her control because she failed to obtain additional child care providers after quitting her job. Additional assistance with obtaining child care was available from the Department but not evidence was presented on the record that Petitioner requested additional assistance with child care. Petitioner did not present any evidence that additional childcare was unavailable.


Based on the evidence and testimony available during the hearing, the Department credibly determined that Petitioner did not have good cause for her noncompliance with PATH.

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 sanctioned Petitioner's Family Independence Program (FIP) benefits for her noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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]