



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: September 8, 2017  
MAHS Docket No.: 17-008869  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Landis Lain**

**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 September 6, 2017, from Lansing, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department or Respondent) was represented by [REDACTED], Family Independence Manager and [REDACTED], Family Independence Specialist.

Respondent's Exhibits 1-8 were admitted as evidence.

**ISSUE**

Whether Petitioner has established Good Cause for her failure to attend Partnership Accountability Training Hope (PATH)/Work-related/self-sufficiency activities?

**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 receiving Family Independence Program (FIP) benefits for a group size of two.
2. At some point the Department erred and gave Petitioner a deferral from work-related activities.
3. Per case summary notes, on March 16, 2017, a caseworker, [REDACTED] did a phone interview with Petitioner for a Food Assistance Program application. Notes indicate

that Child Day Care was pending if client goes to Michigan Works or is deferred for problem pregnancy. (Respondent's Exhibit 4)

4. On March 16, 2017, caseworker Foss generated a Medical Needs form (DHS-54A) through BRIDGES.
5. On March 16, 2017, a verification checklist was sent to Petitioner requesting citizenship and relationship documentation, Social security number for her son and employment information for Child Day Care.
6. A deferral from work related activities was entered by caseworker [REDACTED].
7. On April 28, 2017, per case notes from caseworker [REDACTED], Petitioner was provided with information for [REDACTED], WIC, [REDACTED], and Work First. (Respondent's Exhibit 4)
8. On April 28, 2017, a PATH appointment notice was generated by caseworker [REDACTED], notifying Petitioner that she had an appointment date of [REDACTED] at 9:00am at [REDACTED]. The notice was sent from Lansing to Petitioner at [REDACTED].
9. Petitioner received FIP in the amount of \$ [REDACTED] for the months of April and May 2017.
10. On May 8, 2017, Petitioner did not attend the PATH appointment.
11. On May 11, 2017, per case notes, Caseworker [REDACTED] attempted to contact Petitioner by telephone but was unable to leave a voice mail message because the mailbox was full.
12. On May 23, 2017, Petitioner was scheduled for Triage.
13. Petitioner did not call or show up to Triage. Triage was held without the Petitioner. No good cause was found.
14. On June 29, 2017, Petitioner filed a request for hearing to contest the closure of her FIP case and the FIP sanction.
15. Petitioner conceded on the record that she did not have any complications with the 2017 pregnancy and that she has no doctor's statement indicating that she could not work or attend work related activities during pregnancy.
16. Petitioner had a baby August 5, 2017, but has not provided documentation of the pregnancy or the birth to the Department, as of the date of hearing.

## **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Pertinent Department policy states:

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. BEM 229, page 1

Mandatory PATH clients are referred to PATH upon application for FIP, when a client's reason for deferral ends, or a member add is requested. Do not send any others to PATH at application, unless a deferred client volunteers to participate. All PATH referrals are sent by Bridges. Bridges will generate an automated PATH referral to the one-stop service centers' One Stop Management Information System (OSMIS), as well as generating an DHS-4785, PATH Appointment Notice, which is sent to the participant, when the specialist does all of the following:

- Completes data collection.
- Eligibility determination/benefit calculation (EDBC) is completed for applicants.
- EDBC is completed and ongoing benefits are certified for member adds and ongoing active cases. Note: Do not use the following manual processes:
- Call the one-stop service center to have them terminate a referral on OSMIS.
- Enter a new referral that was not included on the interface between Bridges and MIS.

- Manually generate a DHS-4785 when Bridges has indicated that it has created a referral to PATH and a corresponding DHS-4785.
- Manually enter denials prior to the 17th day after a PATH referral is sent. It is critical that both MDHHS and the PATH staff wait for interfaces to function. Manual entries on either side will cause a client disconnect from both systems. Clients Losing Deferral When a client no longer qualifies for a deferral, Bridges sends a task/reminder to the specialist four days before the end of the month the deferral ends. This task/reminder alerts the specialist to run eligibility and certify in order for the PATH referral and the DHS- 4785 to be automatically generated by Bridges. Bridges sends the PATH referral and the DHS-4785 the first business day of the calendar month after the deferral ends. BEM 229, pages 3-4

The following PATH referrals are rejected and need further action as indicated by a task/reminder or via email:

- Address mismatches. When Postal Soft in Bridges is not used to verify address accuracy, a rejection may occur. Check address using Postal Soft in Bridges and re-refer the client.
- SSN/Customer ID Mismatch. An email will be sent to the specialist of record with instructions. BEM 229, page 5

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, page 7

Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, page 7

An adequate Notice is a written notice sent at the time a case action is effected (not pended) which specifies all of the following:

- The action being taken by the department.
- **The reason for the action.**
- The specific manual item which cites the legal basis for the action.
- An explanation of the individual's right to request a hearing.
- The circumstances under which benefits are continued if a hearing is requested. BPG Glossary, page 1

**In the instant case, Petitioner testified that she did not receive any mail from the Department indicating that her deferral had ended and that she needed to attend PATH or Triage. Petitioner testified that she did not receive notice of the**

**cancellation of her FIP benefits. She first discovered that her FIP benefits had been cancelled when her FIP check amount was not on her Bridge Card. Petitioner did not know who to contact as she has several different caseworkers and stated that she feels like she got lost in the shuffle. She did not receive any calls from the Department. She did receive notice of the hearing but did not receive any of the hearing packet documents in the mail.**

No one from the Department testified from personal knowledge. Although the documents submitted are kept in the ordinary course of business, the Department witnesses testified that the documents are generated in BRIDGES and then sent out from Lansing, so no one could testify as to whether the documents were actually mailed to Petitioner. There was no notice of a cancellation of deferral to Petitioner. There was no verification checklist sent to Petitioner with the DHS 54-A Medical Needs form to notify her of when she should provide documentation of her medical condition.

**GOOD CAUSE** is defined as a circumstance which is considered a valid reason for not complying with a requirement. Bridges Policy Glossary (BPG) page 28

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 MDHHS 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 page 10

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. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments. If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period. Good cause includes the following:

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- **Homelessness.**
- Jail.
- Hospitalization. BEM 233A pages 6-7

The Department determined that Petitioner was originally deferred because of a domestic violence situation. Pertinent Department Policy dictates: Defer parents and caretakers with a documented claim of threatened or actual domestic violence, against themselves or their dependent children that can reasonably be expected to interfere with work requirements. BEM 230, page 9

Deferral from work related activities is allowed under some circumstances during pregnancy. Clients requesting a deferral from PATH due to pregnancy complications must provide medical verification that indicates that they are unable to participate. An individual requesting deferral greater than 90 days for pregnancy complications is not subject to the requirements for establishing long-term incapacity later in this item. BEM 230, page 9

BEM 230A, page 8, states: Disregard one parent of a child under the age of two months up to two months when the newborn is in the home. Disregard a mother for post-partum recovery up to two months after giving birth even when the newborn is not in the home.

In the instant case, Petitioner's testimony is consistent with the evidence in the case. The evidence on the record indicates that Petitioner was originally deferred because she had been involved in a domestic violence situation. Her FIP case was opened by a caseworker and then the case was transferred at least twice to subsequent caseworkers, who may have talked to Petitioner on the phone or attempted to leave messages for her. Petitioner did notify the caseworker in March that she had a problem pregnancy, but the Department never sent her a verification checklist requesting evidence of the problem pregnancy and never sent her notice of when the Medical Needs form it did send was to be returned to the Department. Petitioner testified that she had a baby on [REDACTED]. Though Petitioner did admit that she had no complications during her pregnancy, such an admission does not negate the Department's requirement to provide her proper notice of her status.

The required elements of due process are those that "minimize substantively unfair or mistaken deprivations" by enabling persons to contest the basis upon which a State proposes to deprive them of protected interests. *Fuentes v. Shevin*, 407 U.S. 67, 81 (1972). The core of these requirements is notice and a hearing before an impartial tribunal.

This Administrative Law Judge finds that Petitioner has established good cause for her failure to attend PATH activities. The Department actions must be reversed for the foregoing reasons.

**DECISION AND ORDER**

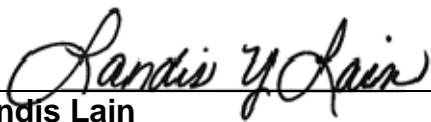
This Administrative Law Judge finds that Petitioner has established good cause for her failure to attend PATH activities. The Department actions must be reversed for the foregoing reasons.

Accordingly, the Department's actions to cancel Petitioner's FIP case and impose a lifetime is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FIP benefits to the date of closure,
2. Provide Petitioner with updated Jobs, Education and Training Appointment Notice setting up a PATH orientation appointment, and
3. If Petitioner is otherwise eligible, pay to her any FIP benefits to which she is entitled from the date of closure forward.
4. Allow Petitioner the appropriate deferral for the [REDACTED], birth of her child
5. Lift the three month sanction.

LL/hb

  
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**Landis Lain**  
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]