



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: September 22, 2017  
MAHS Docket No.: 17-009018  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Denise McNulty**

**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, telephone hearing was held on August 30, 2017, from Detroit, Michigan. The Petitioner represented herself and was accompanied by ██████████, witness/mom. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Family Independence Specialist.

**ISSUE**

Did the Department properly close and sanction the Petitioner's Family Independence Program (FIP) cash assistance for failure to participate in work-related 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. The Department assigned the Petitioner to attend a Partnership. Accountability. Training. Hope. (PATH) program appointment at a Michigan Works Agency on June 12, 2017. The Petitioner did not attend. [Exhibit A, p. 9.]
2. The Department sent Petitioner a Notice of Noncompliance on June 20, 2017, notifying Petitioner that she had failed to participate as required in employment and/or self-sufficiency related activities. The notice provided penalty information incorrectly indicating this was Petitioner's second Family Independence Program (FIP) non-compliance and that her case would close for a minimum of six

months. It also included information about the triage appointment set for June 27, 2017.

3. A triage was held on June 27, 2017, Petitioner did not attend. The Department found no good cause for failure to participate in the PATH program and to appear at the triage meeting.
4. On June 20, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FIP case would close effective August 1, 2017.
5. Petitioner moved from the address to which all of the Department's communications were being mailed. In June 2017, Petitioner requested that her mail be forwarded by the U.S. Post Office and notified the Department of the change in address.
6. The Department received Petitioner's request for hearing on June 30, 2017, disputing the Department's actions.

### **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 condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (April 2016), p. 1. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program or other employment service provider; failing or refusing to appear for a scheduled appointment or meeting related to assigned activities; failing to provide legitimate documentation of work participation; failing to participate in a required activity; and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6. BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include the date(s) of the noncompliance, the reason the client was determined to be noncompliant, and the penalty duration. BEM 233A, pp. 1, 9-11. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (October 2015). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 8-10.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 8-10. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, p. 13. Good cause is based on the best information available during the triage and prior to the negative action date. BEM 233A, p. 9. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, Petitioner requested a hearing to dispute the Department's actions with regard to her FIP benefits. A review of Petitioner's case revealed that there were no verifications for a deferral in her records and that Petitioner had not received any Supplemental Security Income (SSI) since February 2016. That information prompted the Department to make further inquiries of Petitioner. The Department requested Petitioner attend a PATH appointment at Michigan Works Agency on June 12, 2017, and Petitioner did not appear for the appointment. The subsequent required notices and triage appointment were provided to Petitioner. Petitioner did not attend the triage appointment.

Because Petitioner had moved from the address to which the Department mailed the Medical Needs-PATH form, Medical Determination Verification Checklist and PATH Appointment Notice, she did not receive them prior to the due date and appointment date. Petitioner requested her mail be forwarded by the U.S. Postal Service through a change of address, and she notified the Department of her new address at the time of her move in June 2017. Policy requires a client to notify the Department of a change in address within 10 days. BAM 105 (October 2016), p. 12. Petitioner testified she notified the Department of her change of address in June 2017. The Department did not dispute Petitioner's assertion that she provided a change of address in a voicemail left for the case worker.

Petitioner submitted the Medical Needs-PATH form on June 30, 2017, within a day of receiving it. Petitioner was not aware that the Department had set two appointments for her in June 2017 until after the appointments had passed. The communications sent by the Department to Petitioner in June 2017 was forwarded to her new address.

On the Notice of Noncompliance the Department indicated that the present case was a 2<sup>nd</sup> non-compliance of the PATH program. At the hearing, the Department noted that the information was incorrect. The Notice of Noncompliance contradicts the Notice of Case Action issued on June 20, 2017, which indicates this incident is alleged to be Petitioner's first instance of noncompliance. There was no evidence offered at the hearing to support the allegation of a 2<sup>nd</sup> instance of noncompliance. Additionally, the Notice of Case Action indicates Petitioner is only being sanctioned for 3 three months (08/01/17 through 10/31/17) and not six 6 months which is the term of sanction for a second noncompliance. The Department failed to meet its burden to demonstrate that this was Petitioner's second FIP noncompliance.

At the hearing Petitioner stated she was not aware of the PATH appointment. Petitioner stated she did not attend the triage because she was not aware of the appointment. Policy requires that the Department tell a client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. Since Petitioner notified the Department of her change of address, in June 2017, the Department was required to send any requests to the new address; and there is no evidence that the Department sent any of the requests to Petitioner's new address.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP case and that Petitioner had previously been sanctioned for FIP noncompliance.

Accordingly, the Department's decision 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. Reprocess and redetermine Petitioner's eligibility for FIP benefits, back to the effective date of August 1, 2017.
2. To issue supplements, for FIP benefits, **if** Petitioner is determined to be eligible.

DM/jaf



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**Denise McNulty**  
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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