



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 11, 2017
MAHS Docket No.: [REDACTED] 17-009038
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], FIS. [REDACTED], Case Manager, Michigan Works Careers Institute also appeared as a witness.

ISSUE

Did the Department properly close the Petitioner FIP Cash Assistance case for failure to participate in the 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. The Petitioner was an ongoing recipient of FIP benefits.
2. The Petitioner was assigned to attend the PATH program and had been re-engaged on [REDACTED] because she had not been attending Path.
3. A Notice of Noncompliance was sent to Petitioner on [REDACTED] scheduling a triage for [REDACTED] at 8:30 a.m. due to an incident involving the Petitioner's behavior when asked to leave Path because she was late. Exhibit A and Exhibit C.

4. The Department held a triage on [REDACTED] and found no good cause was established for the Petitioner's disruptive behavior.
5. The Department issued a Notice of Case Action on [REDACTED] closing the Petitioner's FIP benefits effective [REDACTED] and imposing a 6 month sanction for failure to participate in employment activities. Exhibit B
6. The Petitioner requested a timely hearing on [REDACTED] [REDACTED] [REDACTED] protesting 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.

In this case, the Department witness from the Path program testified that the Petitioner was disruptive after being late for the Path program for the second time after a re-engagement with Path. Petitioner had to be asked to leave with security guard involvement when Petitioner would not leave, and when leaving, the Petitioner loudly slammed the door. The Petitioner's conduct was deemed disruptive due to her loudness and slamming the door even after being told she could return the next day. A triage was conducted, and no good cause for Petitioner's behavior was found. After the triage, the Department issued a Notice of Case Action on [REDACTED] closing the Petitioner's FIP case effective [REDACTED], and imposing a second sanction for noncompliance with Path Program requirements for 6 months.

The incident arose due to the Petitioner appearing at 11:13 a.m. for Path on [REDACTED]. The Petitioner was advised several times that she was scheduled to participate and to be on time which was at 9:30 a.m. When asked why she was late on the day in question, the Petitioner provided no good reason to excuse her tardiness and Petitioner was told she would not receive participation hours credit for showing up late. Petitioner was given a verbal noncompliance and was told she could return the next day. Exhibit C.

The Petitioner had been recently re-engaged with Path on [REDACTED] when she signed a re-engagement letter. The Path Program Case Notes indicate that after re-engagement, the Petitioner did not attend Path and was given a chance to attend and was clearly told she must be on time. On [REDACTED], the Petitioner showed up late at 10:30 a. m. and was allowed to participate, but was advised that coming in late would no longer be acceptable. On [REDACTED], the next day, the Petitioner was late again and was not allowed to participate in Path. Thereafter, the Petitioner was disruptive, talking loudly and resisting leaving the premises even though she was told that she could return the next day. Exhibit C.

At the triage which was attended by the Petitioner, the Department found no good cause due to Petitioner's behavior which was determined to be unacceptable.

Good cause for noncompliance is defined as:

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. BEM 233A, p. 4.

Department policy governing Path requirements and participation provides:

MDHHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

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.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. BEM 233A (4/1/17) p. 1.

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:

Participate in employment and/or self-sufficiency-related activities.

Participate in required activity.

Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity. BEM 233A (April 2016), p. 3.

After a review of the record and the testimony of the witnesses, it is determined that the Department properly found no good cause for Petitioner's disruptive conduct and that the Petitioner failed to participate in the program. The Petitioner was loud, and disruptive enough that she had to be asked to leave. This was after the Petitioner had been told repeatedly to be on time for Path, and the day prior was told she would not be able to participate if she was late. Rather than leaving quietly, after being given only a verbal warning and told she could return the following day, the Petitioner was disruptive, and thus the Department properly closed the Petitioner's FIP benefits and imposed a sanction after the triage.

During the hearing the Petitioner raised the fact that she had transportation issues. In order for transportation to constitute good cause for noncompliance, the Petitioner was required to request transportation services from the Department or Path prior to case closure and show that reasonably priced transportation was not available to the client. BEM 233A, p. 6. Transportation problems were not raised by the Petitioner at the triage or at any time when Petitioner was late, thus the transportation issue does not warrant any change regarding the triage outcome or the imposition of a sanction. In addition, there was no evidence that transportation assistance was requested. Exhibit C.

The Department properly imposed a 6 month sanction for noncompliance with Path after the triage. BEM 233A p. 8. After the third noncompliance without good cause, a lifetime disqualification is to be imposed.

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 closed the Petitioner's Path case due to noncompliance without good cause and properly imposed a 6 month sanction.

DECISION AND ORDER

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

LF/tm



Lynn M. Ferris
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]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

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

cc:

[REDACTED]
[REDACTED]