



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 29, 2017
MAHS Docket No.: 17-010945
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) 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 25, 2017, from [REDACTED] Michigan. Petitioner was present for the hearing and represented herself. Also, Petitioner's witness/partner, [REDACTED], was present for the hearing and provided testimony. The Department of Health and Human Services (Department or MDHHS) was represented by [REDACTED], General Services Program Manager.

ISSUES

Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on the group member's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly reduced Petitioner's Food Assistance Program (FAP) benefits based on the group member'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. On [REDACTED], Petitioner applied for FIP and FAP benefits. [Exhibit A, pp. 4-34.]
3. Petitioner and her witness (hereinafter referred to as “group member”) claimed disability. [Exhibit A, p. 1.]
4. As a result of claiming disability, the Disability Determination Service (DDS)/Medical Review Team (MRT) conducted a review of Petitioner and her group member’s disability claims to determine if they are medically deferred from the Partnership. Accountability. Training. Hope. (PATH) program. [Exhibit A, p. 1.]
5. On or about [REDACTED], the DDS/MRT approved Petitioner’s medical deferment from the PATH program. [Exhibit A, pp. 37-43.]
6. On or about [REDACTED], the DDS/MRT denied the group member’s medical deferral from the PATH program. [Exhibit A, pp. 49-55.]
7. Because the group member’s deferral request was denied, he was required to participate in the PATH program.
8. On [REDACTED], the Department sent Petitioner a PATH Appointment Notice informing her group member to attend a PATH appointment on [REDACTED]. [Exhibit A, p. 56.]
9. On [REDACTED], the group member attended the PATH program, but he presented a DHS-54E, Medical Needs form, stating he could not work for medical reasons and was sent home. [Exhibit A, pp. 1 and 35.]
10. On or about [REDACTED], the PATH program contacted the group member stating it was his last day to attend the orientation and the “Case Comments-Summary” (case comments) indicated that the group member’s response was that he felt the PATH program was a waste of time. [Exhibit A, pp. 1 and 35 and Testimony by the Department.]
11. Between [REDACTED] to [REDACTED], Petitioner claimed they contacted the PATH worker and the Department worker indicating that the group member could not attend the orientation or his rescheduled orientation due to transportation issues. [Exhibit A, p. 3 and Testimony by Petitioner and the group member.]
12. The Department ultimately determined that Petitioner failed to attend his PATH appointment.
13. On [REDACTED], the Department sent Petitioner a Notice of Case Action closing Petitioner’s FIP case, effective [REDACTED], based on the group member’s failure to participate in employment and/or self-sufficiency related activities without good cause (first sanction). [Exhibit A, pp. 57-62.]

14. On [REDACTED], the Notice of Case Action also notified Petitioner that her FAP benefits were reduced effective [REDACTED], to the amount of \$ [REDACTED] because the group member failed to participate in employment and/or self-sufficiency related activities without good cause. [Exhibit A, pp. 57-62.]
15. On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, pp. 63-64.]
16. On [REDACTED], Petitioner and the group member attended the triage appointment; however, the Department found no good cause for the group member's failure to attend the PATH program.
17. 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, 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 the present case, Petitioner's medical deferment from the PATH program was approved; however, the group member's deferral request was denied. [Exhibit A, pp. 37-43 and 49-55.] As a result, the group member was required to participate in the PATH program. On [REDACTED], the Department sent Petitioner a PATH Appointment Notice informing her group member to attend a PATH appointment on [REDACTED]. [Exhibit A, p. 56.] On [REDACTED], the Department testified the group member attended the PATH program, but he presented a Medical Needs form stating he could not work for medical reasons and was sent home. [Exhibit A, pp. 1 and 35.] On [REDACTED], the Department testified the PATH program contacted the group member stating it was his last day to attend the orientation and the case comments indicated that the group member's response was that he felt the PATH program was a waste of time. [Exhibit A, pp. 1 and 35 and Testimony by the Department.] As such, the Department argued that the group member failed to attend his scheduled appointment, which resulted in Petitioner's FIP benefits closing and her FAP benefits being reduced due to the group member's noncompliance. [Exhibit A, pp. 57-62 and 64.]

Then, on [REDACTED], Petitioner attended the scheduled triage appointment. The Department testified Petitioner stated they could not attend the PATH program because they were disabled and their car broke down [REDACTED]. [Exhibit A, p. 1.] The Department testified that the first time it discovered Petitioner's issue for lack of transportation was during the triage appointment on [REDACTED]. The Department indicated Petitioner informed that the DDS/MRT denied the group member's claim and it was mandatory that he attend the PATH program and that the PATH program can assist with transportation. [Exhibit A, p. 1.] The Department testified that the PATH program stated they were willing work with Petitioner/group member, but the group member stated it was not worth their time. [Exhibit A, p. 1.] As such, the Department argued that no more extensions were allowed, no good cause determined, and employment-related sanction remained. [Exhibit A, p. 1.]

In response, Petitioner testified that the group member was unable to attend the PATH program due to lack of transportation. Petitioner initially provided testimony that the group member could also not attend the PATH program due to his disability; however, at the conclusion of the hearing, both Petitioner and the group member acknowledged that the group member can attend the PATH program with limitations. As such, the undersigned ALJ will not further address the group member's disability claim because he stated he can attend the PATH program. Nonetheless, Petitioner and the group member testified they both attended the orientation on [REDACTED], stating the group member could not work for medical reasons and was sent home. [Exhibit A, pp. 1 and 35.] On [REDACTED], the group member testified that he received a phone call from the PATH worker regarding his orientation and that he informed the PATH worker he could not attend because his vehicle broke down. Eventually, Petitioner testified that the group member was informed by the PATH worker that the orientation was rescheduled and for him to attend on or about [REDACTED]. Again, though, Petitioner testified that they had transportation issues and she called and left voicemails for both the PATH program and their Department worker informing that the group member could not attend for lack of transportation. However, Petitioner testified that they received no response and instead, received the closure and triage notice. Petitioner testified both of them attended the triage and reiterated the same information that the group member could not attend for lack of transportation. Petitioner testified that she also received another PATH Appointment Notice informing the group member to attend the orientation on [REDACTED]. As such, the undersigned allowed the Department to go review its computer system (Bridges) to see if a new PATH Appointment Notice was issued, and the Department discovered that on [REDACTED], the Department issued a reprint of the PATH Appointment Notice dated [REDACTED]. However, the Department testified that it did not find any PATH Appointment Notice informing the group member to attend on [REDACTED].

Based on the foregoing information and evidence, the Department improperly closed Petitioner's FIP benefits effective [REDACTED].

First, the evidence established that the group member was in non-compliance with the PATH program because of his failure to attend his scheduled orientation. Policy states that most WEIs are referred to PATH after a WEI is no longer temporarily deferred from employment services. BEM 230A, p. 4. In this case, it appears that the group member was temporarily deferred from the PATH program, pending the outcome of his medical deferral. BEM 230A, p. 4. However, once DDS/MRT denied his medical deferral, the group member was properly referred to the PATH program in accordance with Department policy. Policy further states that the last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. BEM 230A, p. 5. If the client calls to reschedule before the 15th day, extend the Last Date for Client Contact on the One-Stop Management Information System (OSMIS). BEM 230A, p. 5. Either MDHHS or the one-stop service center have the capability of extending this date. BEM 230A, p. 5. Based on this policy, the group member had 15 calendar days from the [REDACTED], appointment notice to attend PATH, which meant he had until [REDACTED], to attend.

[Exhibit A, p. 56.] Despite the multiple contacts between both parties, the group member ultimately failed to attend the PATH program by [REDACTED]. As a result, the group member was in non-compliance with the PATH program for his failure to attend his orientation. See BEM 230A, p. 5 and BEM 233A, pp. 2-3.

Second, despite the group member failing to attend the PATH program by [REDACTED], Petitioner provided a good cause reason for the group member's non-attendance. Petitioner's good cause reasons were for lack of transportation and an unplanned event or factor. Specifically, "no transportation" good cause policy states that the client requests transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. BEM 233A, p. 6. Furthermore, "unplanned event of factor" policy states that credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 6. In this case, the Department argued that there was no good cause found because (i) it first learned of the lack of transportation during the [REDACTED], triage; and (ii) the PATH program stated they were willing work with the group member but he stated it wasn't worth his time. [Exhibit A, p. 1.] However, the undersigned disagrees. The undersigned finds that Petitioner provided credible testimony that they informed the PATH program and the Department that the group member would be unable to attend the PATH program before the triage appointment because their vehicle broke down. In fact, Petitioner credibly testified that the first time the PATH program was informed of the lack of transportation was during the group member's telephone conversation with the PATH worker on [REDACTED]. It should be noted that the group member also provided similar testimony for the good cause reasons, which, to the undersigned, only bolster's Petitioner's credibility. As such, the undersigned finds that Petitioner established a good cause reason for the group member's failure to attend the orientation based on a lack of transportation and an unplanned event or factor. See BEM 233A, p. 6. Therefore, the Department will remove Petitioner's first FIP non-compliance, and reinstate her FIP benefits effective [REDACTED], ongoing, in accordance with Department policy. BEM 233A, p. 1.

FAP benefits

Based on the above FIP analysis, the Department did not act in accordance with Department policy when it found that the group member 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 improperly closed Petitioner's FIP case, it properly reduced Petitioner's FAP benefits by excluding the group member as a disqualified member of the FAP group. BEM 233B (July 2013), pp. 6-12.

DECISION AND ORDER


The ALJ, 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 did not act in accordance with Department policy when it closed Petitioner's FIP benefits effective [REDACTED] (first sanction – three months); and (ii) the Department improperly reduced Petitioner's FAP benefits by excluding the group member as a disqualified member of the FAP group effective [REDACTED].

Accordingly, the Department's FAP and FIP 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. Remove Petitioner's/group member's FIP and FAP sanctions/disqualification from her case;
2. Reinstate Petitioner's FIP and FAP case as of [REDACTED];
3. Issue supplements to Petitioner for any FIP and FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

EF/bb



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]