



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 27, 2017
MAHS Docket No.: 17-011374
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 28, 2017, from [REDACTED] Michigan. Petitioner was present for the hearing and represented herself. Also, Petitioner's witness, [REDACTED], Case Manager from [REDACTED], was present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator; [REDACTED], Triage Specialist; and [REDACTED], Triage Specialist for Partnership. Accountability. Training. Hope. (PATH).

ISSUE

Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on Petitioner'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 benefits.
2. At the time of Petitioner's participation in the PATH program, the Department and the PATH program had her address as follows: [REDACTED] (previous address). [Exhibit A, p. 28.]

3. On [REDACTED], the PATH program provided Petitioner with an “Appointment with Career Manager” (appointment letter) informing her to attend an appointment with her career manager on [REDACTED]. [Exhibit A, p. 33.]
4. Petitioner failed to attend her scheduled appointment at the PATH program on [REDACTED]. [Exhibit A, p. 27.]
5. On [REDACTED], the PATH program mailed to Petitioner’s previous address a Noncompliance Warning Notice informing her to attend her reengagement appointment on July 13, 2017, due to her missing her scheduled appointment on [REDACTED]. [Exhibit A, p. 27.]
6. On [REDACTED], Petitioner failed to attend her scheduled reengagement appointment. [Exhibit A, p. 26.]
7. On [REDACTED], the PATH program mailed to Petitioner’s previous address a Triage Meeting Notice informing her that she is noncompliance with PATH and a triage meeting has been requested due to her no call/no show of her reengagement appointment. The Triage Meeting Notice informed Petitioner that she will receive a triage appointment notice from the Department. [Exhibit A, p. 24.]
8. On [REDACTED], the Department sent to Petitioner’s previous address a Notice of Case Action closing Petitioner’s FIP case, effective [REDACTED], to [REDACTED], based on a failure to participate in employment and/or self-sufficiency related activities without good cause (second sanction). [Exhibit A, pp. 17-20.]
9. On [REDACTED], the Department mailed to Petitioner’s previous address a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, p. 1 and Testimony by the Department.]
10. Petitioner failed to attend the triage appointment scheduled on [REDACTED], and no good cause was found. [Exhibit A, pp. 1 and 23.]
11. On [REDACTED], Petitioner submitted an online Change Report, in which she reported she was homeless and her mailing address, as of [REDACTED], was [REDACTED] (current address). [Exhibit A, pp. 57-59.]
12. On [REDACTED], Petitioner verbally requested a hearing, protesting her Food Assistance Program (FAP) benefits. [Exhibit A, pp. 3-4.]
13. On [REDACTED], Petitioner filed a signed hearing request, protesting her FAP, FIP, and Medical Assistance (MA) benefits. [Exhibit A, pp. 7-8.]

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

In this case, Petitioner requested a hearing in which she disputed her FAP, FIP, and MA benefits. [Exhibit A, pp. 3-4 and 7-8.] During the hearing, both parties provided sufficient testimony and evidence concerning the closure of her FIP benefits in which the undersigned can render a decision below. However, the undersigned is unable to render a decision concerning Petitioner's dispute with her FAP and MA benefits. Towards the conclusion of the hearing, Petitioner abruptly left the hearing before it could be concluded. At this point when Petitioner left the hearing, the undersigned was unable to obtain sufficient testimony from Petitioner concerning why she also disputed her FAP and MA benefits. Based upon Petitioner's action, the undersigned determines that Petitioner abandoned the hearing in regards to her FAP and MA concerns. It is further determined that as a result of the abandonment, Petitioner's Request for Hearing concerning her FAP and MA benefits is DISMISSED.

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, appear for a scheduled appointment or meeting related to assigned activities, 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 this case, on [REDACTED], the PATH program provided Petitioner with an appointment letter informing her to attend an appointment with her career manager on [REDACTED]. [Exhibit A, p. 33.] However, Petitioner failed to attend this appointment. [Exhibit A, p. 27.] As a result, on [REDACTED] the PATH program mailed to Petitioner's previous address a Noncompliance Warning Notice informing for her to attend her reengagement appointment on [REDACTED]. [Exhibit A, p. 27.] Again though, Petitioner failed to attend her scheduled reengagement appointment. [Exhibit A, p. 26.] Because Petitioner failed to attend her reengagement appointment, on [REDACTED], the PATH program mailed to Petitioner's previous address a Triage Meeting Notice informing her that she is noncompliance with PATH and a triage meeting has been requested. [Exhibit A, p. 24.] The Triage Meeting Notice informed Petitioner that she will receive a triage appointment notice from the Department. [Exhibit A, p. 24.] [Exhibit A, p. 24.] On [REDACTED], the Department mailed to Petitioner's previous address a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, p. 1 and Testimony by the Department.] However, Petitioner failed to attend the triage appointment and no good cause was found. [Exhibit A, pp. 1 and 23.] As such, the Department argued that Petitioner was in non-compliance with the PATH program due to her missing her appointments (i.e., appointment or reengagement appointment).

In response, Petitioner argued that she never received the mail correspondences from the PATH program/the Department because she no longer resided at the previous address. She indicated that she did not receive the correspondence because she was homeless. She testified she was suffering from depression. It was discovered during

the hearing that on [REDACTED], Petitioner submitted an online Change Report, in which she reported the following: (i) she was homeless; and (ii) as of [REDACTED], she provided her current mailing address. [Exhibit A, pp. 57-59.] Petitioner appeared to argue that she notified the Department/PATH program prior to the change report that her address changed. The Department argued that it did not receive notification of the homelessness or change of address.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective [REDACTED], in accordance with Department policy.

First, the evidence established that Petitioner was in non-compliance with the PATH program because of her failure to attend her scheduled appointment on [REDACTED], and her failure to attend her reengagement appointment on [REDACTED]. [Exhibit A, pp. 26-27.] Petitioner indicated that she did not receive notice of these appointments, claiming that she was homeless and had an updated mailing address. However, the undersigned does not find Petitioner's argument persuasive. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). It is found that Petitioner failed to rebut the presumption of proper mailing. The Department and the PATH program provided sufficient evidence to show that it sent Petitioner all correspondences to Petitioner's proper address at the time of the non-compliance, which was [REDACTED]. It wasn't after Petitioner's case closed that Petitioner updated her address via an online Change Report on [REDACTED]. [Exhibit A, p. 56-58.] Petitioner failed to provide any evidence showing she informed the Department and/or the PATH program of her updated address prior to the online Change Report. As such, it is found that the Department and the PATH program properly sent all correspondences to Petitioner's proper address at the time and that she failed to attend these scheduled appointments, resulting in non-compliance with the PATH program.

Second, the undersigned finds that Petitioner failed to present any good cause reason for her non-compliance. Petitioner claimed illness or injury (depression) and homelessness as her good cause reasons for the non-compliance. See BEM 233A, pp. 5-6. However, the undersigned does not find Petitioner's argument persuasive. Petitioner failed to present any medical documentation showing that she suffers depression. Moreover, the undersigned does not doubt that Petitioner is homeless and had a change of address, but it is her responsibility to report these changes timely because they potentially affect her eligibility. Policy states that other changes, such as an address change, must be reported within 10 days after the client is aware of them. BAM 105 (October 2016), p. 12. The evidence indicated that Petitioner was aware of her homelessness and updated mailing address in [REDACTED], but she did not report these changes until [REDACTED] (online Change report). [Exhibit A, pp. 56-58.] The undersigned cannot find a good cause reason for her non-compliance because she failed to timely report her changes in homelessness and updated mailing address. Had she done this, then the Department would have been able to mail her all the

correspondences, such as the Notice of Noncompliance, to Petitioner's proper address and at that point, she could have provided her good cause reasons. In sum, Petitioner failed to provide a good cause reason for her non-compliances. See BEM 233A, pp. 4-7.

Accordingly, the Department acted in accordance with Department policy when it found Petitioner in non-compliance with the PATH program and closed her FIP benefits for her second sanction (six months) effective [REDACTED]. BEM 233A, p. 1.


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 acted in accordance with Department policy when it properly closed Petitioner's FIP benefits effective [REDACTED].

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

IT IS ALSO ORDERED that Petitioner's FAP and MA hearing request is **DISMISSED**.

EF for GH/bb



Gary Heisler
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]