



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 30, 2017
MAHS Docket No.: 17-011375
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. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator; [REDACTED], Partnership. Accountability. Training. Hope. (PATH) employment Specialist; [REDACTED], Case Manager; and [REDACTED], PATH Coordinator.

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. As part of Petitioner's PATH participation requirements, she was required to submit weekly job search and community service logs. [Exhibit C, pp. 2-3.]
3. On [REDACTED], the PATH program e-mailed to Petitioner a Noncompliance Warning Notice informing her that she has become noncompliant with PATH for

the following reasons: (i) failure to submit 26 hours of job search for week of [REDACTED]; (ii) 10 hours of job search and 20 hours community service for week of [REDACTED]; and (iii) she did not attend her meeting for [REDACTED]. The Noncompliance Warning Notice informed her to attend her reengagement appointment on [REDACTED]. [Exhibit C, p. 6.]

4. On [REDACTED], Petitioner failed to attend her scheduled reengagement appointment. [Exhibit C, p. 5.]
5. On [REDACTED], the PATH program mailed Petitioner a Triage Meeting Notice informing her that she is noncompliance with PATH and a triage meeting has been requested. The Triage Meeting Notice informed Petitioner that she will receive a triage appointment notice from the Department. [Exhibit C, p. 4.]
6. On [REDACTED], the Department sent Petitioner 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. 2-4.]
7. On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, pp. 5-6.]
8. Petitioner attended the triage appointment, but the Department found no good cause for her non-compliance. [Exhibit A, p. 1; and Exhibit B, p. 3.]
9. At the triage, Petitioner presented medical documents as her good cause reason for the non-compliance. [Testimony by Petitioner.]
10. On [REDACTED], Petitioner filed a signed hearing request, protesting her FIP case closure.

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.

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, Petitioner was required to submit weekly job search and community service logs. [Exhibit C, pp. 2-3.] On [REDACTED], the PATH program e-mailed Petitioner a Noncompliance Warning Notice informing her that she has become noncompliant with PATH for the following reasons: (i) failure to submit 26 hours of job search for week of [REDACTED]; (ii) 10 hours of job search and 20 hours community service for week of [REDACTED]; and (iii) she did not attend her meeting for [REDACTED]. [Exhibit C, p. 6.] The Noncompliance Warning Notice informed her to attend her reengagement appointment on [REDACTED], in order to discuss the non-compliance. [Exhibit C, p. 6.] However, Petitioner failed to attend her scheduled reengagement appointment, despite her acknowledging receipt of the appointment via e-mail. [Exhibit C, pp. 5 and 7.] Because Petitioner failed to attend her reengagement appointment, on [REDACTED], the PATH program mailed Petitioner a Triage Meeting Notice informing her that she is noncompliance with PATH and a triage meeting has been requested. [Exhibit C, p. 4.] The Triage Meeting Notice informed Petitioner that she will receive a triage appointment notice from the Department. [Exhibit C, p. 4.] On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. [Exhibit A, pp. 5-6.] Petitioner attended the triage appointment, but the Department found no good cause for her non-compliance. [Exhibit A, p. 1; and Exhibit B, p. 3.] In sum, the Department argued that Petitioner was in non-compliance with the PATH program due to her missing her appointments (i.e., [REDACTED], [REDACTED], appointment/reengagement appointment and her failure to submit the required hours for her logs).

In response, Petitioner testified she was pregnant and during her first trimester, she has been very sick. She testified that she informed her PATH caseworker that she cannot do all of her requirements, to which the PATH program indicated it had been trying to work with her. [Exhibit B, p. 3; and Exhibit C, p. 10.] She testified that she has doctor's notes excusing her from the non-compliance dates and she brought it to her triage meeting. She testified that the Department and/or PATH workers did not review it and would not accept it. She testified she was sick and went to the hospital on [REDACTED], because she kept getting worse. She testified that her daughter was sick as well and she had to stay with her. She testified that she has a doctor's note dated [REDACTED], stating she was ill and nauseated between [REDACTED], to [REDACTED], and she is unable to attend work due to her pregnancy. Again, she stated the Department and/or PATH workers refused to review these medical notes during the triage. And in fact, Petitioner presented her medical records/notes she claimed she presented at the triage. [Exhibit 1, pp. 1-5.] Of particular note, Petitioner did present a "Work/School Status Note" dated [REDACTED], which stated she was ill and nauseated between [REDACTED], through [REDACTED], and felt she was unable to attend work, signed by an individual from [REDACTED]. [Exhibit 1, p. 3.]

Based on the foregoing information and evidence, the Department improperly 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 (i) she failed to submit the hours required for the weeks of [REDACTED], and [REDACTED]; (ii) she failed to attend her appointment meeting on [REDACTED]; and (iii) she failed to attend her reengagement appointment on [REDACTED]. [Exhibit C, pp. 4-6.]

Second, despite Petitioner being in non-compliance with the PATH program for the above stated reasons, Petitioner provided a good cause reason for the non-compliance. Petitioner's good cause reason was illness or injury, which policy defines as a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. BEM 233A, p. 5. The undersigned finds Petitioner's testimony credible that she presented these medical documents/notes during her triage on [REDACTED]. In fact, Petitioner presented these medical documents/notes for the evidence record, which, to the undersigned, only bolster's her claim that they were presented at the time of the triage. [Exhibit 1, pp. 1-5.] Furthermore, the medical documents/notes show that Petitioner had an illness or injury that provided a valid reason for her non-compliance. For example, one medical note stated Petitioner felt ill and nauseated between [REDACTED], through [REDACTED]. [Exhibit 1, p. 3.] This time period mentioned in the medical note covered the period in which the Department claimed Petitioner was in non-compliance with the PATH program. As such, the undersigned finds that Petitioner established a good cause reason for her noncompliance based on an illness or injury. BEM 233A, p. 5.

Accordingly, the Department will remove Petitioner's second FIP non-compliance and reinstate her FIP benefits effective [REDACTED], ongoing, in accordance with Department policy. BEM 233A, p. 1.

DECISION AND ORDER

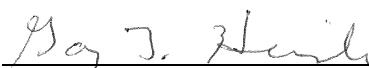
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FIP benefits effective [REDACTED] (second sanction – six months).

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

EF for GH/



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]