



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: April 3, 2017  
MAHS Docket No.: 17-002653  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on March 27, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Specialist; and ██████████ Career Coach from Michigan Works! (hereinafter referred to as the "Partnership. Accountability. Training. Hope (PATH) program").

**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. The Department indicated that Petitioner was completing 40 hours per week of participation in the PATH program; however, federal work participation only requires 30-hours a week.

3. Petitioner's weekly participation hours consisted of education hours, community services hours, and job search hours. Exhibit A, pp. 8-11.
4. The Department found that Petitioner failed to meet her required participation hours for the weeks of December 5, 2016 and December 12, 2016. Exhibit A, p. 11.
5. During the week of December 5, 2016, the Department found that Petitioner completed zero of her education hours, 12 out of her 20 community service hours, and 11 out of her 20 job search hours, which totaled 23 out of the 40 hours it required her to participate in the PATH program. Exhibit A, p. 11.
6. During the week of December 12, 2016, the Department found that Petitioner did not submit any documentation showing participation hours. Exhibit A, p. 11.
7. The Department determined that Petitioner was in non-compliance with the PATH program for the weeks of December 5, 2016 and December 12, 2016 due to her failure to participate in employment and/or self-sufficiency related activities.
8. On or about December 9, 2016, the Department sent Petitioner a Notice of Case Actin informing her that her FIP benefits would close. Exhibit A, p. 11.
9. On February 3, 2017, the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on February 15, 2017. Exhibit A, p. 6.
10. On February 3, 2017, the Department sent Petitioner a Notice of Case Action closing Petitioner's FIP case, effective March 1, 2017, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 21-25
11. On February 15, 2017, Petitioner attended her triage appointment and the Department determined no good cause for her non-compliance. Exhibit A, p. 1.
12. On February 15, 2017, Petitioner filed a hearing request, protesting the FIP case closure. 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.

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 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, physically or mentally 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 was completing 40 hours per week of participation in the PATH program; however, federal work participation requires only 30-hours a week. See BEM 228 (October 2015), pp. 14-15. Petitioner was submitting weekly hours showing participation in education hours, community services hours, and job search hours. Exhibit A, pp. 8-11. The Department argued that Petitioner failed to meet her required participation hours for the weeks of December 5, 2016 and December 12, 2016. Exhibit A, p. 11.

During the week of December 5, 2016, the Department found that Petitioner completed zero of her education hours, 12 out of her 20 community service hours, and 11 out of her 20 job search hours, which totaled 23 out of the 40 hours it required her to participate in the PATH program. Exhibit A, p. 11. During the week of December 12, 2016, the Department found that Petitioner did not submit any documentation showing participation hours. Exhibit A, p. 11. As a result, the Department determined that Petitioner was in non-compliance with the PATH program for the weeks of December 5, 2016 and December 12, 2016. On February 3, 2017, the Department mailed Petitioner

a Notice of Noncompliance scheduling Petitioner for a triage appointment on February 15, 2017. Exhibit A, p. 6. On February 15, 2017, Petitioner attended her triage appointment and the Department determined no good cause for her non-compliance. Exhibit A, p. 1. Thus, the Department upheld Petitioner's FIP closure without any good cause reason.

In response, Petitioner disputed the closure of her FIP benefits. Petitioner addressed each weekly separately. For the week of December 5, 2016, Petitioner testified that she did not submit any education hours because her instructor refused to sign the log. This information was communicated to the Department during the triage appointment held on February 15, 2017. Exhibit A, p. 11. She testified her instructor and her advisor, [REDACTED], an Associate Director of Operations from the university Petitioner attends, refused to sign the log because they were unaware of the PATH program. See Exhibit A, p. 40. However, in response, the PATH caseworker testified Petitioner's university has been signing the logs for some time already. Moreover, the Case Comments – Summary indicated that [REDACTED] told the PATH caseworker that Petitioner sits in class and is on her phone. Exhibit A, p. 11. This information was also communicated during the triage appointment held on February 15, 2017. Exhibit A, p. 11.

Additionally, the Department presented multiple e-mail communications addressing the non-compliance/logs from Petitioner, the Department, the PATH program, and [REDACTED]. See Exhibit A, pp. 12-20 and 26-40. One e-mail of importance was dated December 12, 2016, in which Petitioner sent an e-mail to the PATH program, with attached images of her logs. See Exhibit A, pp. 15-19. Petitioner wrote in the e-mail that her instructor refused to sign the log and that she is meeting with the official on this issue. Exhibit A, p. 19. Another e-mail of importance was from [REDACTED] dated February 16, 2017 and February 24, 2017, and addressed the education logs. Exhibit A, pp. 38 and 40.

In regards to the week of December 12, 2016, the Department found that Petitioner did not submit any documentation showing participation hours. Exhibit A, p. 11. During the triage, though, Petitioner communicated to the Department that she did not participate in the PATH program because she received a Notice of Case Action informing her that her FIP benefits closed. Exhibit A, p. 11. The Department acknowledged that this closure notice is a good cause reason for her non-compliance during the week of December 12, 2016. The undersigned Administrative Law Judge (ALJ) agrees. The good cause reason for the week of December 12, 2016 would be based on an unplanned event or factor as to why she did not participate in the PATH program. See BEM 233A, p. 6. The undersigned will not further address the week of December 12, 2016 as good cause has been established. However, the Department still argues that Petitioner was in non-compliance for the week of December 5, 2016.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that Petitioner was in non-compliance with the PATH program for the week of December 5, 2016. Despite the instructor's refusal to sign the education log, there was no doubt that Petitioner still attended her required university courses for the

week of December 5, 2016. The undersigned does not find the instructor's refusal to sign the education log amounts to a non-compliance of the PATH program. The only information the evidence record has as to why the instructor refused to sign the logs was from Ms. Decker and/or e-mails stating that Petitioner sits in class and is on her phone. Exhibit A, p. 11. This information alone fails to show by a preponderance of evidence that Petitioner was in non-compliance with the PATH program. The Department failed to have the instructor present for the hearing to provide direct testimony as to why the instructor refused to sign the log.

In summary, the evidence established that Petitioner attended her required university courses for the week of December 5, 2016 and therefore, Petitioner met her required participation hours for her educational requirements. Accordingly, the undersigned finds that Petitioner was in compliance with the PATH program and the Department is ordered to remove the FIP sanction.

### **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 improperly closed Petitioner's FIP benefits effective March 1, 2017.

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 first FIP sanction/disqualification from her case;
2. Reinstate Petitioner's FIP case as of March 1, 2017;
3. Issue supplements to Petitioner for her FIP benefits effective March 1, 2017, ongoing; and
4. Notify Petitioner of its decision.

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**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]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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CC:

[REDACTED]  
[REDACTED]