



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: March 31, 2017
MAHS Docket No.: 17-002719
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 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 telephone hearing was held on March 27, 2017, from Detroit, Michigan. The Petitioner was present at the hearing and represented herself. Also, Petitioner's witness/Pastor [REDACTED] was present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by Karen Willet, Family Independence Manager; and Kirsten Vescio, Family Independence Specialist.

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. On June 30, 2016, Petitioner requested a medical deferral from Partnership. Accountability. Training. Hope (PATH) and the information was sent to the Disability Determination Service (DDS)/Medical Review Team (MRT). Exhibit A, pp. 3-152 and 382.

3. On September 9, 2016, DDS/MRT denied Petitioner's deferral request from the PATH program. Exhibit A, pp. 153-159.
4. On October 14, 2016, the Department received a new Medical Needs – PATH form (DHS-54-E) with a new diagnosis. Exhibit A, pp. 160-161.
5. On January 23, 2017, a second request was sent to DDS/MRT to determine if she is medically deferred from the PATH program due to the new diagnosis. Exhibit A, pp. 160-364 and 382.
6. On January 25, 2017, DDS/MRT denied Petitioner's second deferral request from the PATH program. Exhibit A, pp. 365-371.
7. On January 25, 2017, the Department sent Petitioner a Quick Note informing her that DDS/MRT that denied her medical deferral request and that she must participate in the PATH program. Exhibit A, p. 372.
8. On January 25, 2017, the Department sent Petitioner a PATH Appointment Notice informing her to attend a PATH appointment on February 7, 2017. Exhibit A, p. 373.
9. Petitioner failed to attend the PATH appointment.
10. On February 13, 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 (first sanction). Exhibit A, pp. 378-381.
11. On February 13, 2017, the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED] 2017. Exhibit A, pp. 374-375.
12. On [REDACTED] 2017, Petitioner attended the triage appointment; however, the Department found no good cause for Petitioner's failure to attend an employment and/or self-sufficiency related activities.
13. On February 23, 2017, Petitioner filed a hearing request, disputing the Department's action. Exhibit A, p. 1.

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.

FAP benefits

As a preliminary matter, Petitioner also disputed her FAP benefits. Exhibit A, p. 1. However, Petitioner's FAP benefits were not affected in this case due to the non-compliance. The Department presented an Eligibility Summary showing that her FAP benefits were not closed. Exhibit A, p. 376. Moreover, the Notice of Case Action dated February 13, 2017, indicated that only Petitioner's FIP benefits were affected by the non-compliance. The evidence established that there was no negative action for Petitioner's FAP benefits and that they are ongoing. Accordingly, the undersigned Administrative Law Judge (ALJ) concludes there is no hearable issue present for Petitioner's FAP benefits and therefore, her FAP hearing request is DISMISSED. See BAM 600 (October 2016), pp. 1-6. Now, if Petitioner's FAP benefits do close, she can request another hearing to dispute the closure. See BAM 600, p. 6 (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

FIP non-compliance

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 this case, Petitioner was deferred from the PATH program again because she submitted a new Medical Needs – PATH form (DHS-54-E) claiming a new diagnosis. Exhibit A, pp. 160-161. However, on January 25, 2017, DDS/MRT denied Petitioner's second deferral request. Exhibit A, pp. 365-371. Because Petitioner's second deferral request was denied, the Department sent Petitioner a PATH Appointment Notice on January 25, 2017, informing her to attend a PATH appointment on February 7, 2017. Exhibit A, p. 373. But, Petitioner failed to attend the PATH appointment. As such, the Department scheduled a triage on [REDACTED] 2017, in order to discuss the noncompliance and good cause. Exhibit A, pp. 374-375.

On [REDACTED] 2017, Petitioner attended the triage appointment; however, the Department found no good cause for Petitioner's failure to attend an employment and/or self-sufficiency related activities. The Department indicated that Petitioner did not present any evidence showing that her existing condition has worsened or that a new condition resulted in a disability great than 90 days in order to obtain a new DDS/MRT decision. See BEM 230A, p. 15.

In response, Petitioner argued her FIP benefits should not be closed and disputed the DDS/MRT decision finding that she is able to participate in the PATH program. Petitioner testified that she was unable to attend her scheduled PATH appointment because of her disabilities. Both Petitioner and her witness provided testimony that she could not work and/or participate in the PATH program due to her medical conditions. Petitioner/witness also referred back to the Medical Needs – PATH form (DHS-54-E) she submitted back on October 14, 2016, showing that she is disabled. Exhibit A, pp. 160-161. Petitioner, though, did not provide to the undersigned any testimony or evidence showing that her existing condition has worsened or that a new condition resulted in a disability great than 90 days in order to obtain a new DDS/MRT decision. See BEM 230A, p. 15.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective March 1, 2017, ongoing, in accordance with Department policy.

First, this hearing decision has no authority and/or jurisdiction to reverse DDS/MRT decision for Petitioner as it relates to a denial of a PATH deferral. BEM 230A states that

when a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A, p. 28. Petitioner deferral not being is not a loss of benefits or services. Petitioner's FIP case closure is based on her failure to participate in employment related activities, which resulted in a notice of case action being issued for the noncompliance.

Second, policy states that after a DDS/MRT decision and/or Social Security Administration (SSA) medical determination has been denied and the client states their existing condition has worsened or states they have a new condition resulting in disability greater than 90 days, verify the new information using a DHS-54-A or a DHS-54E. BEM 230A, p. 15. If the returned verification confirms the above, see BAM 815. BEM 230A, p. 15. The specialist must assign and maintain Family Self-Sufficiency Plan (FSSP) activities to ensure continued pursuit of self-sufficiency. BEM 230A, p. 15. When an individual presents a doctor's note after the DDS decision but does not have new medical evidence or a new condition, send the DHS-518, Assessment For FIP Participation, to the doctor and request supporting medical evidence. BEM 230A, p. 15. If new medical evidence is not provided, do not send the case back to the DDS. The previous DDS decision stands. BEM 230A, p. 15. In the present case, Petitioner failed to provide sufficient evidence or testimony showing that a new DDS/MRT decision was necessary. As such, the previous DDS/MRT decision stands and Petitioner must participate in the PATH program. See BEM 230A, p. 15.

Third, as stated above, because DDS/MRT denied Petitioner's deferral request, she must participate in the PATH program. The evidence established that Petitioner failed to attend her scheduled PATH appointment for [REDACTED] 2017. Exhibit A, p. 373. Therefore, Petitioner's was in non-compliance with the PATH program due to her failure to attend her scheduled appointment. See BEM 233A, pp. 2-3.

Fourth, the evidence presented that Petitioner did not provide any sufficient good cause reason for the noncompliance. As such, the Department acted in accordance with Department policy when it closed Petitioner's FIP case for a three-month minimum. 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 March 1, 2017.

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

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

EF/tm



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

Lynne Greening
2700 Baker Street
PO Box 4290
Muskegon Heights, MI
49444

Petitioner

[REDACTED]
MI

cc: FIP (PATH): G. Vail, D. Sweeney
AP Specialist – BSC3