



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 5, 2017
MAHS Docket No.: 17-002813
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 [REDACTED], Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing coordinator, and [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

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 FIP benefit recipient.
2. Petitioner was deferred from ongoing Partnership. Accountability. Training. Hope. (PATH) participation.
3. On [REDACTED], MDHHS mailed Petitioner a notice to attend PATH on [REDACTED].

4. On [REDACTED], MDHHS received a statement from Petitioner's physician stating Petitioner has a standing/walking restriction expected to last longer than 90 days.
5. MDHHS did not forward the physician statement to DDS for evaluation of continued medical deferral.
6. On [REDACTED] Petitioner failed to attend PATH.
7. On [REDACTED], MDHHS mailed Petitioner a Notice of Noncompliance alleging Petitioner failed to participate in a required activity.
8. On [REDACTED], MDHHS terminated Petitioner's FIP eligibility, effective [REDACTED] [REDACTED], and assessed an employment-related sanction against Petitioner.
9. On [REDACTED], Petitioner requested a hearing to dispute the FIP.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FIP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 21-24) dated [REDACTED] which informed Petitioner of a termination of FIP benefits beginning [REDACTED]. The stated reason for termination was noncompliance with an employment-related activity. MDHHS testimony specified Petitioner failed to attend a scheduled orientation to begin PATH participation.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

[WEIs] must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.* All WEIs, unless temporarily

deferred, must engage in employment that pays at least state minimum wage or participate in employment services. *Id.*, p. 4.

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 (see *Id.*, pp. 2-3):

- Appear and participate with the work participation program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a FSSP.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.*, p. 1. Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.*

MDHHS presented a PATH Appointment Notice (Exhibit 1, p. 11) mailed to Petitioner on [REDACTED]. It was not disputed that Petitioner failed to attend the scheduled orientation.

MDHHS presented a Notice of Noncompliance (Exhibit 1, pp. 18-20) dated [REDACTED]. The document stated Petitioner was noncompliant for “No Initial Contact with MWA.”

Presented documents appeared to establish a basis for finding Petitioner to be noncompliant with employment-related activities. An analysis of whether MDHHS followed proper procedures before determining Petitioner was noncompliant with PATH participation is necessary to determine if Petitioner was a WEI.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. BEM 230A (October 2015) p. 11. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. *Id.* MDHHS policy prescribes a 3-step process.

MDHHS describes the first step of PATH deferral as “Establishment of disability” (see *Id.*, p. 12). Once a client claims a disability he/she must provide MDHHS with verification of the disability when requested. *Id.* The verification must indicate that the disability will last longer than 90 calendar days. *Id.* If the verification is not returned, a disability is not established. *Id.*

MDHHS describes the second step of the PATH deferral as “Defining the Disability.” For verified disabilities over 90 days, see BAM 815, Medical Determination and Disability Determination Service, for the policy requirements in obtaining a medical certification from DDS. *Id.*

The third step in the PATH deferral process is “Referral to DDS.” [MDHHS is to] send the completed required forms along with any medical evidence provided, to the DDS to begin the medical development process. *Id.*

MDHHS testimony indicated a review of deferred PATH participants was undertaken in [REDACTED]. It was not disputed that Petitioner was among the clients who had been deferred from PATH participation. It was not stated for how long Petitioner had been deferred. MDHHS testified that Petitioner was mailed a Medical Needs- PATH form in attempt to update Petitioner’s status as an appropriately deferred PATH participant.

It was not disputed Petitioner returned a Medical Needs- PATH form (Exhibit 1, pp. 7-8) to MDHHS on [REDACTED]. The document was unsigned, incomplete, and undated. MDHHS alleged Petitioner completed the few sections that were completed; Petitioner did not deny the allegation.

The Medical Needs- PATH form was returned with a physician office visit note (Exhibit 1, p. 9) dated [REDACTED] [REDACTED] [REDACTED]. Petitioner’s physician listed diagnoses of spondylosis and sacroiliitis.

MDHHS deemed the returned forms to be insufficient for purposes of continuing Petitioner’s PATH deferral. It was not disputed that MDHHS informed Petitioner of the

documents' shortcomings (see Exhibit 1, p. 10) and mailed Petitioner a new Medical Needs- PATH form.

MDHHS presented a Medical Needs- PATH form (Exhibit 1, pp. 13-14) received by MDHHS on [REDACTED]. The document was completed by Petitioner's physician. Diagnosis of spondylosis and sacroiliitis were stated. It was stated Petitioner could not work at his usual occupation. It was stated Petitioner could work at some jobs, but with limitations. A restriction of standing/walking less than 2 hours in an 8 hour workday was noted. Listed restrictions were stated to last longer than 90 days. Sitting and lifting/carrying restrictions were not provided, though it was stated Petitioner would need a functional residual examination before other restrictions could be stated. It was stated Petitioner needed no assistance with household activities.

As of [REDACTED], Petitioner submitted to MDHHS a Medical Needs- PATH form with a physician statement that Petitioner had a long-term restriction to standing and/or walking. MDHHS also possessed a treatment record consistent with the statement. Petitioner's submissions were sufficient to continue the process of medical deferral from PATH.

An MDHHS case worker deemed the returned documents to be insufficient to continue Petitioner's medical deferral. Petitioner's documentation to support continued PATH deferral was underwhelming, though that is not the case worker's determination to make. MDHHS should have forwarded Petitioner's submission to DDS for evaluation of PATH deferral. MDHHS should have also continued Petitioner's deferral from PATH until DDS determined that continued deferral from PATH was not justified. The failure of MDHHS to evaluate Petitioner for continued PATH deferral renders the determination of noncompliance and corresponding termination of FIP benefits to be improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility, effective [REDACTED], subject to the finding that MDHHS failed to establish employment-related noncompliance by Petitioner;
- (2) Supplement Petitioner for any benefits improperly not issued; and
- (3) Remove any relevant employment-related sanction from Petitioner's disqualification history.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]