



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 24, 2017  
MAHS Docket No.: 17-003738  
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 [REDACTED] [REDACTED] from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

### **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 [REDACTED], the Department sent Petitioner a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice informing her to attend a PATH appointment on [REDACTED]. Exhibit A, p. 10.
3. Per the credible testimony of Petitioner, she failed to timely receive the PATH Appointment Notice due to her mailing issues from the United States Postal Service (USPS).

4. Petitioner did not attend her PATH appointment for [REDACTED].
5. On [REDACTED] [REDACTED] [REDACTED], the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED]. Exhibit A, pp. 11-12.
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action closing Petitioner's FIP case, effective [REDACTED], based on a failure to participate in employment and/or self-sufficiency-related activities without good cause for her first time. Exhibit A, pp. 3-6.
7. On [REDACTED], Petitioner failed to attend her triage appointment; however, the Department still reviewed her case file and found no good cause for Petitioner's non-compliance.
8. On [REDACTED], Petitioner filed a hearing request, disputing the Department's action. Exhibit A, p. 2.

### **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, long commute or eligibility for an extended FIP period. BEM 233A, pp. 4-6.

In the present case, the Department sent Petitioner a PATH Appointment Notice informing her to attend a PATH appointment on [REDACTED]. Exhibit A, p. 10. However, Petitioner did not attend her PATH appointment for [REDACTED]. As such, the Department initiated closure of her FIP benefits due to her non-compliance and scheduled her a triage appointment on [REDACTED]. Exhibit A, pp. 3-6 and 11-12.

In response, Petitioner testified that she did not receive the PATH Appointment Notice timely. Since [REDACTED], Petitioner testified that she resides in a two-person flat on the upper floor. She testified the other occupant resides below her. She testified that her mailbox is located on the side of the home. She indicated the other occupant's mail is delivered in an in-door mailbox. She argued her mailing issue is that her mail is delivered in the other occupant's mail, which she has no access too and this included the PATH Appointment Notice. She testified that she has informed the mailperson of this ongoing issue. She testified that she eventually got the PATH Appointment Notice, but not until after the scheduled appointment of [REDACTED].

The Department testified that the PATH Appointment Notice was sent via central print, and it was not returned back undeliverable by the USPS. The Department indicated that its system notes show that the PATH program contacted Petitioner on [REDACTED], [REDACTED] and left her a voicemail notifying her of the scheduled appointment on [REDACTED]. Petitioner testified that she did not remember the voicemail.

Additionally, Petitioner failed to attend her triage appointment on [REDACTED]; however, the Department still reviewed her case file and found no good cause for Petitioner's non-compliance.

In response, Petitioner testified that she was hospitalized on [REDACTED], and left a voicemail for her caseworker on [REDACTED]. On [REDACTED], Petitioner testified she spoke to her caseworker and indicated how she is unable to attend the triage due to being ill and about her mailing issues.

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).

Based on the foregoing information and evidence, the undersigned Administrative Law Judge (ALJ) finds that the Department improperly closed Petitioner's FIP benefits effective [REDACTED]. It is found that Petitioner rebutted the presumption of proper

mailing. The undersigned finds Petitioner's testimony credible that she never received the PATH Appointment Notice until after her scheduled appointment date of [REDACTED]. Petitioner's provided detailed testimony as to how she continues to have mailing issues because her mail is delivered to another occupant of her home. Also, the Department indicated that its system notes show that the PATH program contacted her to remind her of the scheduled appointment. But, the Department failed to provide any of its case notes as part of the evidence record to confirm such a call, as Petitioner could not recall. Nevertheless, even if a voicemail was left, the PATH Appointment Notice provides the location, date, and time of her appointment, which Petitioner credibly established she did not receive timely. Exhibit A, p. 10. Because Petitioner rebutted the presumption of proper mailing that she did not receive the PATH Appointment Notice timely, she was unable to attend her schedule appointment and therefore, a non-compliance did not occur in this case. The Department is ordered to delete the non-compliance and reinstate her FIP case effective [REDACTED], ongoing, in accordance with Department policy.

It should be noted that even if a non-compliance did exist, Petitioner had a good cause reason for not attending, which was based on an unplanned event or factor. BEM 233A, p. 6. Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. BEM 233A, p. 6. The undersigned finds that her inability to receive the PATH Appointment Notice due to her mailing issues was an unplanned event or factor which likely prevented or significantly interfered with her employment and/or self-sufficiency-related activities. See BEM 233A, p. 6.

### **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].


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 sanction/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]; and
4. Notify Petitioner of its decision.

EJF/jaf



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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

