



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: August 18, 2017
MAHS Docket No.: 17-008396
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 three-way telephone hearing was held on August 9, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Marla Cooper, Success Coach Pathways to Potential.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to a 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 a condition of FIP eligibility, Petitioner was required to participate in the Partnership.Accountability.Training.Hope. (PATH) program and to submit weekly participation logs.

3. The Department asserted that Petitioner failed to submit weekly participation logs for the weeks of February 5, 2017, February 12, 2017, and February 19, 2017, and thus found her to be noncompliant with work-related activities.
4. The Case Notes presented indicate that on February 27, 2017, Petitioner did submit activity logs for the week of February 19, 2017. (Exhibit A, p. 3)
5. There was no evidence presented that the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting to discuss whether good cause existed for her alleged noncompliance.
6. A triage was held on or around [REDACTED], 2017, which Petitioner attended. At the triage, Petitioner informed the Department that she did not submit weekly participation logs for the weeks at issue because of her daughter's medical and behavioral conditions.
7. The evidence suggests that during the triage, Petitioner sought a deferral from participation in PATH on the basis that she is caring for her daughter. Petitioner was provided with a Medical Needs form to complete and return.
8. The Department determined that Petitioner did not have good cause for her alleged noncompliance. The Department initiated the closure of Petitioner's FIP case effective May 1, 2017, and imposed a six-month sanction.
9. Although Petitioner confirmed receiving a Notice of Case Action advising her of a case closure, the Department did not present any such notice for review at the hearing.
10. On June 16, 2017, Petitioner requested a hearing disputing the closure of her FIP case.

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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH

program. BEM 233A (April 2016), pp. 1-2. The WEI can be considered noncompliant for several reasons including: failing or refusing to appear and participate with the work participation program (PATH) or other employment service provider; failing or refusing to appear for a scheduled appointment or meeting related to assigned activities; failing to provide legitimate documentation of work participation; failing to participate in a required activity; and failing or refusing to participate in employment and/or self-sufficiency related activities, among other things. BEM 233A, pp 1-4. 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. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include: the name of the noncompliant individual; the date(s) of the noncompliance; the reason the client was determined to be noncompliant; the penalty duration; and the scheduled triage appointment. BEM 233A, pp. 10-12. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (April 2016). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 9-12.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 9-12. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, pp. 12-13. Good cause is determined using the best information available during the triage and prior to the negative action date. BEM 233A, pp. 10-13. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the Department testified that Petitioner was noncompliant with employment related activities because she did not submit weekly participation logs. The Department initially stated that Petitioner failed to submit participation logs for the weeks of February 5, 2017, February 12, 2017, and February 19, 2017; however, a review of the Case Notes indicates that Petitioner did return participation logs for February 19, 2017. (Exhibit A, p. 3). The Department did not present any documentary evidence in support of its case other than the Case Notes.

Although the Department stated that a triage was held on [REDACTED], 2017, to discuss the noncompliance and good cause, the Department failed to establish that it sent Petitioner a notice of noncompliance with the relevant information as required by BEM 233A. At the triage, Petitioner asserted that she had good cause for her noncompliance and advised the Department of her daughter's medical and behavioral issues. The

Department testified that it provided Petitioner with time to provide documentation of her daughter's medical condition to establish that she had good cause for her noncompliance, however, because Petitioner did not provide the documents in the time frame provided, it determined that she did not have good cause and initiated the closure of her FIP case. It was unclear, and the Department could not sufficiently explain, if Petitioner was provided with additional time to establish that she had good cause for her noncompliance or if she was provided with time to have a Medical Needs form completed in order for Petitioner's request for deferral to be processed, however. The Department also did not establish that it processed Petitioner's request for deferral in accordance with Department policy. Additionally, the Department did not present a Notice of Case Action for review but testified that Petitioner's case was closed effective May 1, 2017, and that a six-month penalty was imposed.

At the hearing, Petitioner testified that for the February 2017 period at issue, her daughter had documented medical and behavioral problems that required her to attend school with her daughter and participate in a behavior support plan. Petitioner stated that her daughter also had doctor appointments during this period and that she provided the Department with the requested documentation verifying her good cause. Petitioner presented for review documentation from her daughter's school including a letter from the Dean and a Behavior Support Plan, as well as letters from her daughter's doctor and therapist to support her testimony. Petitioner further provided a copy of the Medical Needs Form she submitted to the Department which indicated that Petitioner was needed with her child for the weeks at issue. (Exhibit 1). Petitioner presented sufficient evidence to establish that she had good cause for her failure to complete and submit the weekly PATH participation logs.

Based on the evidence presented, the Department failed to establish that Petitioner was noncompliant with employment related activities without good cause. As such, 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 case and imposed a six month sanction.

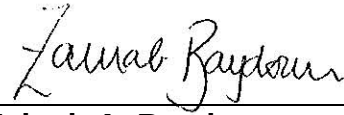
DECISION AND ORDER

Accordingly, the Department's 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 the six-month employment sanction/penalty imposed on Petitioner's FIP case;
2. Reinstate Petitioner's FIP case effective May 1, 2017;

3. Issue FIP supplements to Petitioner for any benefits she was entitled to receive but did not from May 1, 2017, ongoing, in accordance with Department policy; and
4. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-23-Hearings
BSC4 Hearing Decisions
D. Sweeney
G. Vail
MAHS

Petitioner – First-Class Mail:

