



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: December 11, 2017
MAHS Docket No.: 17-008960-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

HEARING DECISION ON REHEARING

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 telephone hearing was held on December 4, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Rebecca Johnson, Assistance Payments Worker; Leviticus Perry, PATH Coordinator; and Ghada Turk, Access Case Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

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 meeting her PATH requirements by engaging in self-sufficiency-related activities.
3. On June 15, 2017, the Department sent Petitioner a Notice of Noncompliance informing her that she was noncompliant due to her failure to participate in required activity (Exhibit B).

4. On June 15, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was being closed effective July 1, 2017, ongoing, and that she was subject to a three-month sanction (Exhibit A).
5. On [REDACTED], 2017, Petitioner attended a triage meeting. The Department alleged good cause was not found.
6. On June 28, 2017, Petitioner submitted a request for hearing disputing the Department's actions.
7. On August 9, 2017, a hearing was held with the Michigan Administrative Hearing System (MAHS).
8. On August 11, 2017, MAHS issued a decision regarding Petitioner's FIP benefits.
9. On November 16, 2017, MAHS issued an order granting Petitioner's request for a rehearing. The August 11, 2017 Hearing Decision was vacated and a new hearing was ordered scheduled with the undersigned ALJ.
10. On December 4, 2017, a rehearing on the above-referenced matter was held.

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.

In this case, Petitioner requested a hearing to dispute the Department's decision to close her FIP benefit case that was issued on June 15, 2017. The Department testified that Petitioner failed to engage in employment/self-sufficiency-related activities, resulting in her noncompliance.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Noncompliance with self-

sufficiency-related activities includes failing to appear and participate with Partnership.Accountability.Training.Hope. (PATH) or other employment or other service provider. BEM 233A, p. 2. Penalties include case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

The Department testified that Petitioner was required to complete 30 hours per week of participation in PATH activities, such as education and job search. The Department alleged that during the weeks of May 21, 2017, through May 27, 2017, and May 28, 2017, through June 3, 2017, Petitioner did not meet the 30-hour requirement. The Department stated that Petitioner was scheduled to attend classes 30 hours per week, 6 hours per day, Monday through Friday.

In support of its contention that Petitioner did not meet the minimum 30-hour requirement during the weeks in question, the Department provided her education logs for those particular weeks. The education logs are completed by workers at the Michigan Works facilities, where individuals meet their PATH requirements. For the week of May 21, 2017, through May 27, 2017, the education log indicates Petitioner was absent on May 22, 2017, and therefore, only completed 24 hours that week (Exhibit C). However, the log also states Petitioner completed 6 hours on May 22, 2017. The Department could not provide an explanation as to the discrepancy. The log does not reflect what occurred on May 24, 2017. The log neither states that Petitioner was present, nor does it show she was absent. Petitioner stated she was present on May 22, 2017, and May 24, 2017. Petitioner provided a sign-in sheet from May 24, 2017, showing that she signed in for class on May 24, 2017 (Exhibit 2).

Petitioner's testimony that she completed six hours of class time on May 24, 2017, was credible. Additionally, Petitioner presented corroborating documentation to establish that she was present on that date. The Department was unable to provide an explanation as to why the education log indicates Petitioner was both present and absent on May 22, 2017. Therefore, the Department failed to establish that Petitioner failed to meet the minimum required hours for the period of May 21, 2017, through May 27, 2017.

The education log for the week of May 28, 2017, through June 3, 2017, indicates Petitioner was absent on June 1, 2017, and therefore, she only accrued 24 hours of class time. Petitioner acknowledged she was absent on June 1, 2017. Petitioner testified that in the morning she had to take a drug test for her probation. Petitioner stated she then attended an employment orientation. After the orientation, Petitioner stated she had to take a pre-employment drug screen. Petitioner provided documentation that she completed a pre-employment drug screen on June 1, 2017.

Petitioner's testimony that she engaged in employment-related-activities on June 1, 2017, was credible. Petitioner's testimony that she met the minimum 30-hour requirement during the period of May 28, 2017, through June 3, 2017, was also credible. Therefore, the Department failed to establish that Petitioner failed to comply with employment/self-sufficiency-related-activities. Thus, the Department failed to establish that it followed policy when closing Petitioner's FIP benefit case.

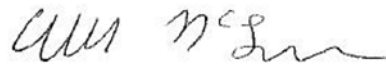
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefit case and subjected her to a three month sanction.

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. Redetermine Petitioner's FIP eligibility as of July 1, 2017, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from July 1, 2017, ongoing;
3. Remove all self-sufficiency-related noncompliance penalties from Petitioner's FIP benefit case on or about July 1, 2017; and
4. Notify Petitioner of its FIP decision in writing.



EM/

Ellen McLemore
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

MDHHS-Wayne-17-Hearings

Petitioner



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