



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 8, 2017
MAHS Docket No.: 17-013105
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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, an in-person hearing was held on December 7, 2017, from Detroit, Michigan. The Petitioner was present and was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by Audrey Craig, Family Independence Specialist, and Sara Sanders, Case Manager at Ross, Michigan Works Affiliate.

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 recipient.
2. Petitioner's employment ended in May 2017.
3. On July 26, 2017, the Department sent Petitioner a Notice of Noncompliance informing her that she was noncompliant due to her failure to participate in a required activity (Exhibit A).
4. On July 26, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective August 1, 2017,

ongoing due to her failure to participate in employment related activities and that she was subject to a six-month sanction (Exhibit B).

5. On [REDACTED], 2017, Petitioner attended a triage meeting. The Department alleged good cause was not found.
6. On October 4, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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 July 26, 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.

According to the case notes provided by the Department from [REDACTED], [REDACTED] affiliate, Petitioner was previously employed, but lost her employment in May 2017. The

case notes state Petitioner was reengaged back in PATH as of [REDACTED], 2017, and that she signed a reengagement agreement. The notes also indicate that Petitioner did not attend PATH the week ending June 9, 2017, the week ending June 16, 2017 and as of June 21, 2017, Petitioner had still failed to attend PATH.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8.

The Department testified a triage meeting was held on [REDACTED], 2017, at which Petitioner was present. According to the case comments, Petitioner did not establish good cause for her failure to attend PATH. Therefore, Petitioner's FIP benefit case closed effective August 1, 2017, ongoing and she was subject to a six-month sanction.

Petitioner testified that she did lose her employment in May 2017. Petitioner stated that she spoke with her case manager at [REDACTED] and was informed she would have to be re-referred back to PATH by her Department case worker. Petitioner stated she attempted to contact her worker, but received no response. Petitioner testified she was not aware she had been reengaged in PATH.

The Department did not present a witness with firsthand knowledge of Petitioner's case. The Department did not provide a witness to verify Petitioner had been reengaged in PATH and that she had been notified of the reengagement. The Department also did not provide a witness that was present at the triage meeting to establish good cause was not established. The Department did not provide documentation to verify Petitioner did not attend the PATH program during the weeks in question, such as the activity logs to show Petitioner was absent. The Department also did not present the PATH reengagement agreement that was purportedly signed by Petitioner, according to the case notes. The Department did not present sufficient evidence that Petitioner was noncompliant with PATH and that good cause was not established. Therefore, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a six-month sanction.

DECISION AND ORDER

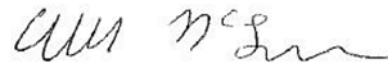
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to establish that it acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a six-month 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 August 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 August 1, 2017, ongoing;
3. Remove all self-sufficiency-related noncompliance penalties from Petitioner's FIP benefit case on or about August 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.

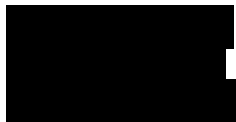
If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

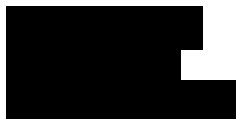
DHHS

MDHHS-Wayne-76-Hearings

Petitioner



Counsel for Petitioner



BSC4
B Cabanaw
E McLemore
MAHS