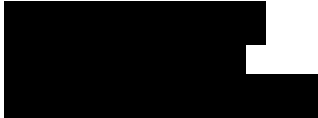




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 20, 2018
MAHS Docket No.: 18-001853
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 telephone hearing was held on 4/19/18, from [REDACTED] Michigan. The Petitioner was not represented. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] APS, and [REDACTED] [REDACTED] FIS.

ISSUE

Did the Department properly sanction Petitioner's FIP program as a result of noncompliance with the PATH program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was a beneficiary of FIP program with the Michigan Department of Health and Human Services, the Department.
2. The Department subcontracts with the Michigan Works First Office to conduct mandatory work/training programs for recipients of welfare benefits who have mandatory work requirements as a condition of receiving those benefits.
3. Petitioner has mandatory work requirements under federal and state law as a condition of receiving FIP benefits.
4. Sometime in December 2017, the Works First Agency informed the Respondent that Petitioner was noncompliant with the work first job requirements.

5. On 1/3/18 the Respondent issued a Notice of Noncompliance due to “quite or was fired from job” with a triage appointment set up for 1/11/18 at the county office.
6. Petitioner failed to appear for the appointment.
7. On 1/3/18 the Respondent issued a Notice of Case Action that Petitioner’s cash program will close effective 2/1/18-7/31/18 due to Petitioner’s failure to participate in employment and/or self-sufficiency-related activities without good cause. Ex.A.10.
8. On 2/15/18 Petitioner filed a hearing request.

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.

Specific PATH policy for the FIP program is found in BEM 230A. That policy states in part:

NONCOMPLIANCE: When a client determined by DDS to be work ready with limitations becomes noncompliant with PATH or his/her FSSP assigned activities, follow instructions outlined in BEM 233A. P. 15 of 25

BEM 233A is titled: Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP. That policy lays out the notice and substantive review during triage with beneficiaries in order to give the beneficiary the opportunity to establish good cause and discuss the case. The penalty is not applied until after triage so that the beneficiary has the opportunity for review.

In this case, the Department received information that Petitioner was noncompliant with work first. This information was forwarded to the local office. At that point, policy and statute requires the department to give Petitioner an opportunity to discuss the case and show good cause by setting a triage. At the administrative hearing, Petitioner wanted to discuss her work first noncompliance. However, this ALJ finds that the facts surrounding the same are not controlling to the issue here-which is whether Petitioner failed to participate with the local office triage. Petitioner rights to exercise a hearing right with Michigan Works is also not an issue herein; such is not within the jurisdiction of the ALJ.

Here, the Department issued a notice of triage meeting, along with a proposed noncompliance letter, both on 1/3/18. Triage was scheduled for 1/11/18. If Petitioner established good cause at the triage meeting, the Department would delete the negative action.

Unrefuted evidence of record is that Petitioner failed to show for the triage meeting. Petitioner argued that she was unaware as she had changed her address, so she did not receive notice of the meeting. Unrefuted evidence is that Petitioner notified the Respondent of an address change in a voice mail on 1/4/18, after the Department issued the notice of the triage meeting. Petitioner however argues that she notified the Department in a phone conversation with her worker prior to this time. That worker was a witness at the administrative hearing. However, that worker had no recollection of such a conversation regarding a new address with Petitioner.

Petitioner also failed to put in a change of address with the postal service.

In all eligibility cases, the beneficiary has the burden of proof by a preponderance of evidence. Here, Petitioner had no documentary or otherwise evidence to show that she reported her address change prior to 1/4/18, after the notices had already been mailed. Moreover, Petitioner failed to change her address with the postal service which, if such had been done, would have forwarded the appropriate notices to her.

After a careful review of the credible and substantial evidence of the whole record, this ALJ finds that given evidence no better than equivocal, that is regarding the address change, the burden must weigh against the burden with the burden. As such, this AJ finds that Petitioner did not meet her burden of proof as required under the law to establish good cause, and thus, the Department's action must be upheld.


As to the second sanction, the Department credibly testified that Petitioner received a first sanction on 10/29/12. Petitioner did not rebut the evidence. As such, the record supports finding that this is Petitioner's second sanction.

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 acted in accordance with Department policy when it applied a second sanction to Petitioner's FIP program for noncompliance with the work requirements.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/nr



Janice Spodarek
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]

[REDACTED]

Petitioner

[REDACTED]