



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 26, 2018
MAHS Docket No.: 18-002384
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 25, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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. On November 27, 2017, Petitioner and her infant daughter were the victims of a shooting incident wherein they both suffered significant injuries.
2. On February 1, 2018, the Department issued a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice scheduling the appointment for February 12, 2018, at 9:00 AM.
3. Petitioner received the appointment notice two days before the appointment on Saturday, February 10, 2018.

4. On February 12, 2018, Petitioner contacted the PATH Office to let them know that she had a doctor's appointment that day and was unable to attend; she was advised that she needed to contact her Department caseworker.
5. From February 12, 2018, through February 28, 2018, Petitioner attempted to contact her caseworker and was unable to reach her
6. On February 20, 2018, the Department issued a Notice of Noncompliance with a scheduled triage appointment for March 1, 2018, at 9:00 AM.
7. On or about March 1, 2018, Petitioner was finally able to speak with her caseworker and explain her circumstances, the caseworker advised her that there had been a change in who was managing her case and that her FIP case was being reinstated.
8. On March 1, 2018, the Department received Petitioner's request for hearing disputing the closure of her FIP case.
9. On March 2, 2018, Petitioner's FIP benefits were reinstated with no lapse in coverage.
10. At the pre-hearing conference, Petitioner was advised that she should still attend the scheduled hearing because there have been glitches in the computer system causing her FIP case to open and close repeatedly.

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's FIP case was closed for failure to attend the PATH appointment scheduled for February 12, 2018, at 9:00 AM. The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (January 2018), p. 1. Federal and state laws require each work eligible individual in the FIP group to participate in PATH or engage in activities that meet participation requirements. *Id.* A work eligible individual who refuses, without good cause, to participate in an assigned employment and/or other self-sufficiency related activities is

subject to penalties. *Id.* Good cause for noncompliance may be established when a client has 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. BEM 233A BEM 233A (April 2016), p. 4. Individuals may be deferred from referral to the PATH program if the individual is a recipient of Retirement, Survivors and Disability Insurance (RSDI) based on disability or blindness and persons found eligible for RSDI based on disability or blindness who are in non-pay status. BEM 230A, pp. 10-11. Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A, p. 11. Short-term incapacity and its length can be verified by using a DHS-54A, Medical Needs, or DHS-54E Medical Needs-PATH form, or other written statement from an Medical Doctor, Doctor of Osteopathic Medicine, or Physician's Assistant. *Id.* For long-term incapacity clients, those that have an incapacity, disability, or inability to participate in PATH for more than 90 days, the client is deferred in Bridges. *Id.* Once a client claims a disability, he/she must provide the Department with verification of the disability showing it will last longer than 90 days. BEM 230A, p. 12. If the client fails to return the information, a disability is not established; the client will be required to fully participate in PATH as a mandatory participant. *Id.*

Petitioner and her daughter are gunshot victims. As a result of the gunshot wounds, both Petitioner and her daughter are suffering from lasting medical issues and require weekly medical treatment. On the day the PATH appointment was scheduled, Petitioner underwent a blood transfusion. She suffers from nerve damage in her hand resulting from a bullet still being lodged in it as well as migraines, seizures, and blackouts from another bullet still lodged in her skull. Since Petitioner suffers from these conditions, she cannot drive and has a ride service that will pick her up and take her to appointments. However, to use the ride service, she must schedule the transportation at least three days in advance.

On the day of the PATH appointment, Petitioner contacted the PATH office and advised them of her inability to attend and was told to contact her caseworker. Unfortunately, she could not reach her case worker for more than two weeks because of changes in who was managing her case. Under these circumstances, Petitioner has established good cause for her failure to attend the PATH appointment. The Department's initial decision of noncompliance from February 20, 2018, prior to Respondent's hearing request, was not in accordance with Department policy. Therefore, the Department's decision is reversed.

It should be noted that after Petitioner's hearing request, the Department reinstated Petitioner's FIP benefits, in accordance with policy. However, this decision is being issued after concerns were expressed by both parties that a computer error was causing Petitioner's case to open and close repeatedly after the initial closure.

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. Reinstate Petitioner's FIP case effective February 20, 2018, the date of the Department's decision to find Petitioner in noncompliance;
2. If otherwise eligible, issue any supplements to Petitioner for benefits not previously issued in accordance with Department policy from February 20, 2018, ongoing; and
3. Notify Petitioner in writing of its decision.



AM/

Amanda M. T. Marler
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]

Petitioner

[REDACTED]
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