



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 23, 2018
MAHS Docket No.: 18-002414
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 19, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with her mother, [REDACTED], as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator, and [REDACTED], Case Worker.

ISSUE

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

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 has been an ongoing recipient of FIP benefits.
2. On June 5, 2012, Petitioner was found to be in noncompliance with Partnership. Accountability. Training. Hope. (PATH) program without good cause.
3. From 2012 through 2016, Petitioner did not apply for FIP benefits because she was living on the cash proceeds from a settlement agreement.
4. From 2016 through December 2017, Petitioner was deferred from participation in the PATH program.

5. On January 9, 2018, the Disability Determination Service (DDS) made a decision the Petitioner was not disabled-work ready with limitations.
6. As a result, on January 11, 2018, the Department sent Petitioner a PATH appointment notice to attend a PATH orientation on January 22, 2018, at 8:30 AM.
7. On January 29, 2018, the Department issued a Notice of Noncompliance and advised Petitioner of her triage appointment scheduled for February 6, 2018, at 8:30 AM as a result of noncooperation with PATH.
8. On the same day, the Department issued a Notice of Case Action advising Petitioner that her FIP case was closing for failure to participate in employment and/or self-sufficiency related activities for a second time.
9. On February 23, 2018, Petitioner submitted her hearing request 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.

In this case, Petitioner disputes the closure of her FIP benefits due to noncompliance with PATH. 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 activity is subject to penalties. *Id.* 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.* Once all completed forms in addition to any provided medical expense have been received by the Department, the documents are provided to DDS to begin the medical development process. *Id.* DDS determines whether the client is able to participate in PATH. Clients determined as work ready with limitations are required to participate in PATH as defined by DDS. BEM 230A, p. 13. The Department must end the disability in Bridges, update the client's file as work ready with the defined limitations from DDS, and Bridges generates the referral to PATH. *Id.*

Once a DDS decision and/or Social Security Administration (SSA) medical determination has been denied and the client states his/her existing condition has worsened or has developed a new condition resulting in a disability greater than 90 days, the new information must be verified using a DHS-54-A or a DHS-54E. BEM 230A, p. 15. If the verification forms are received and confirm the client's statements, the case can be sent back to DDS. *Id.* If no new medical evidence is provided, the previous DDS decision stands. *Id.*

When a client determined by DDS to be ready with limitations becomes noncompliant by failing to appear or participate with PATH and does not have good cause for the failure to appear or participate, the penalty is closure of the FIP case. BEM 233A (April 2016), pp. 2, 8. In addition, the following penalties apply:

- For the first occurrence of noncompliance, the closure is for not less than three calendar months.
- For the second occurrence, the closure is for not less than six calendar months.
- For the third occurrence, the closure is applied as a lifetime sanction.

BEM 233A, p. 8.

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, p. 4.

Petitioner received a determination of not disabled with work ready limitations on January 9, 2018, from DDS. (Exhibit A, pp. 24-30). On January 11, 2018, the Department issued a PATH Appointment Notice scheduling Petitioner's appointment for

January 22, 2018, at 8:30 AM. (Exhibit A, p. 9.) Petitioner did not attend the appointment and a Notice of Noncompliance was issued on January 29, 2018, with a triage appointment scheduled for February 6, 2018, at 8:30 AM. (Exhibit A, p. 6). BEM 233A, pp. 12-13. Likewise, a Notice of Case Action was issued informing client of the closure of her FIP case effective March 1, 2018, and applied a 6-month FIP closure. (Exhibit A, pp. 2-5). *Id.* Petitioner did not attend the triage appointment and did not establish good cause for her noncompliance. Given that the Petitioner had already been found to be in noncompliance on June 5, 2012, the Department properly applied the six-month closure. Therefore, the Department properly closed Petitioner's FIP case.

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 six-month closure to Petitioner's FIP case.

DECISION AND ORDER

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

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

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