



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: June 4, 2018  
MAHS Docket No.: 18-003716  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 May 29, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tori Johnson, specialist, and Tosha Brown, Petitioner's career coach from a Partnership. Accountability. Training. and Hope. (PATH) agency.

**ISSUES**

The first issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility due to Petitioner's noncompliance with PATH participation.

The second issue is whether MDHHS properly disqualified Petitioner from Food Assistance Program (FAP) eligibility based on noncompliance with PATH participation.

**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 and FAP recipient. Petitioner's eligibility for both programs was based on a group which included Petitioner and a minor child.
2. As of January 22, 2018, Petitioner was an ongoing participant with a PATH agency.
3. On or near January 22, 2018, Petitioner submitted to her assigned PATH agency correspondence from her doctor. The correspondence stated that Petitioner was unable to work until at least February 22, 2018, due to pregnancy-related complications.

4. From at least February 22, 2018, through March 5, 2018, Petitioner did not return for participation with PATH. (Exhibit A, pp. 1-2)
5. On an unspecified date in late February 2018, Petitioner submitted medical documents to PATH which stated that she should be exempted from PATH due to continued pregnancy complications. Petitioner's PATH worker did not receive the documents.
6. On March 5, 2018, MDHHS mailed Petitioner a Notice of Noncompliance informing Petitioner of an allegation that she failed to participate in PATH. The notice also informed Petitioner of a triage date of March 14, 2018. MDHHS noted that Petitioner's noncompliance was Petitioner's second noncompliance.
7. On March 5, 2018, MDHHS mailed Petitioner a Notice of Case Action which informed Petitioner of a termination of FIP benefits beginning April 2018. Petitioner was also disqualified from receipt of FIP benefits for six months. The notice also informed Petitioner of a reduction of FAP benefits to \$████ based on a group size of one person due to Petitioner's disqualification from FAP eligibility. (Exhibit A, pp. 8-10)
8. On March 14, 2018, Petitioner failed to attend a triage.
9. On April 4, 2018, Petitioner requested a hearing to dispute the termination of FIP eligibility and the reduction in FAP eligibility.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FIP benefits effective April 2018. MDHHS presented a Notice of Case Action which informed Petitioner the basis for FIP termination was Petitioner's failure to participate in employment-related activities. MDHHS testimony specifically alleged that Petitioner failed to return to PATH participation after being exempted for 30 days due to medical reasons.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A (January 2018), p. 1.

Clients requesting a deferral from PATH due to pregnancy complications must provide medical verification that indicates that they are unable to participate. *Id.*, p. 9. If the client claims an inability to participate in PATH based on pregnancy complications, it must be verified by one of the following: note from the client's doctor, DHS-49, DHS-54A, or DHS-54E. *Id.*, p. 9.

WEIs and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. BEM 233A (April 2016) p. 1.

A representative from PATH testified that Petitioner was exempted from PATH from approximately January 22, 2018, to February 22, 2018. Beginning February 22, 2018, Petitioner was expected to return to PATH. The PATH representative testified she called Petitioner on February 25, 2018, to inform Petitioner to return to PATH. She also testified that Petitioner was mailed a written notice informing her to return to PATH. After not hearing from Petitioner, the PATH representative concluded that Petitioner was noncompliant with PATH participation and MDHHS was so informed.

In response to Petitioner's apparent noncompliance, MDHHS initiated termination of Petitioner's FIP eligibility and scheduled a triage for March 14, 2018. Petitioner did not attend the triage and Petitioner's FIP eligibility subsequently closed.

Petitioner's failure to attend PATH, apparent failure to submit paperwork to MDHHS or PATH, and failure to attend a triage meeting to assert good cause all support finding that MDHHS properly terminated Petitioner's FIP eligibility. During the hearing, the testifying PATH representative expressed doubts about the propriety of the FIP closure.

Before the hearing, Petitioner presented the testifying PATH representative with documents that supposedly would have exempted Petitioner from PATH participation beginning February 22, 2018, due to ongoing pregnancy complications. Petitioner testified that she submitted the documents to PATH on an unspecified date in late February 2018. The PATH representative testified that she was unaware of Petitioner's documents before the date of hearing because she never received them. She also testified that she believed that Petitioner submitted the documents to PATH, and they were misplaced by her agency. The PATH representative believed Petitioner submitted the medical documentation even after an optional sign-in log from late February 2018 from PATH was checked, and Petitioner's name was not found in the log. The absence of Petitioner's signature on the optional sign-in log, Petitioner's failure to call her specialist or PATH case worker before the hearing to inform them that a medical document was submitted, and Petitioner's failure to bring her medical document to a triage appointment all support rejecting Petitioner's claim that she submitted a medical document to PATH in late February 2018. Though there were reasons to doubt that Petitioner timely submitted medical documents to PATH, the statements by the PATH

representative expressing belief that Petitioner timely submitted medical documentation is found to be the most persuasive evidence. Thus, it is found that Petitioner timely submitted medical documents to PATH in late February.

The testifying PATH worker acknowledged that Petitioner's medical document submission to PATH would have resulted in Petitioner's exemption from PATH participation, and thus, Petitioner should not have been deemed noncompliant. Based on the testimony of the PATH representative that Petitioner submitted medical documents to exempt her from PATH, it is found that Petitioner was compliant with PATH participation and that MDHHS improperly terminated Petitioner's FIP eligibility.

The finding that Petitioner was compliant with PATH participation also renders any corresponding disqualification to be improper. Thus, it is also found that MDHHS improperly disqualified Petitioner from FIP eligibility. MDHHS will be ordered to reinstate Petitioner's FIP eligibility and to remove any corresponding FIP disqualification.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a reduction of FAP eligibility beginning April 2018. The Notice of Case Action dated March 5, 2018, indicated that Petitioner's FAP eligibility decreased because of Petitioner's failure to engage with an employment-related activity. The employment-related activity at issue was Petitioner's compliance with PATH participation.

"Noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. Disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements; see DEFERRALS in BEM 230B.
- The client did not have good cause for the noncompliance." BEM 233B (January 2018), p. 3.

MDHSH disqualified Petitioner from FAP eligibility based on a conclusion that Petitioner was noncompliant with PATH participation. It was already found that Petitioner was compliant with PATH participation because she submitted medical documentation verifying pregnancy complications. As Petitioner was compliant with PATH concerning

FIP eligibility, Petitioner is equally compliant with PATH concerning FAP eligibility. Thus, it is found that MDHHS improperly reduced Petitioner's FAP eligibility.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly affected Petitioner's FAP and FIP eligibility beginning April 2018. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility effective April 2018 subject to the finding that Petitioner was compliant with PATH participation;
- (2) Recalculate Petitioner's FAP eligibility beginning April 2018 subject to the finding that Petitioner was compliant with PATH participation;
- (3) Remove any relevant disqualifications from Petitioner's disqualification history; and
- (4) Initiate a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/



**Christian Gardocki**

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) 763-0155; 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**

LaClair Winbush  
MDHHS-Wayne-31-Hearings

**Petitioner**

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BSC4  
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