



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 6, 2018
MAHS Docket No.: 18-004564
Agency No.: ██████████
Petitioner: ██████████

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 June 4, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Krista Hainey, manager, and Gabriela Bangkuai, case manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

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 December 30, 2017, Petitioner submitted to MDHHS an application for FIP benefits (Exhibit A, pp. 1-24). MDHHS subsequently approved Petitioner's application.
2. On January 8, 2018, Petitioner submitted a Medical Needs – Partnership. Accountability. Training. Hope. (PATH) form (Exhibit A, pp. 25-26) to MDHHS. Petitioner's physician documented that Petitioner delivered a baby (hereinafter "Baby") on ██████████ 2018, and was unable to work for six weeks. MDHHS subsequently deferred Petitioner from PATH attendance.
3. On March 20, 2018, MDHHS mailed Petitioner a PATH Appointment Notice informing Petitioner of an appointment at PATH on April 2, 2018 (Exhibit A, p.

27). Following a request to reschedule, MDHHS mailed Petitioner a PATH appointment Notice on April 2, 2018, informing Petitioner of a new appointment on April 9, 2018.

4. On April 9, 2018, Petitioner failed to attend her PATH appointment.
5. On April 21, 2018, MDHS mailed Petitioner a Notice of Case Action informing Petitioner of a termination of FIP benefits, effective June 2018.
6. On April 30, 2018, Petitioner requested a hearing to dispute the termination of FIP benefits.
7. On May 2, 2018, MDHHS held a triage with Petitioner. During the triage, Petitioner provided MDHHS with a letter from her medical provider (Exhibit 1). The letter stated that Baby refused to be fed by a bottle and that Petitioner had to be home with Baby so she could breastfeed Baby. MDHHS denied Petitioner's good cause for failing to attend PATH resulting in FIP benefit termination.

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 to be effective June 2018. The corresponding Notice of Case Action stated that Petitioner's FIP eligibility was terminated due to Petitioner's failure to participate in employment-related activities. Specifically, Petitioner failed to attend PATH following a post-partum deferral.

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.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (April 2016), p. 2. Noncompliance of applicants, recipients, or member adds includes failing to appear and participate with the work participation program or other employment service provider. *Id.*

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.

The evidence established that MDHHS mailed Petitioner notice of two appointments to restart PATH participation and that Petitioner failed to attend both appointments. Petitioner's failure to attend her PATH appointments established a basis for initiating a termination of FIP eligibility. Petitioner's FIP eligibility termination cannot be found proper until good cause is evaluated.

Good cause is 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. A claim of good cause must be verified and documented. If it is determined during triage the client has good cause and good cause issues have been resolved, send the client back to PATH. *Id.*, p. 4. Reasons for good cause include an unplanned event or factor. *Id.*, p. 5.

MDHHS policy states that good cause is apt when credible information indicates an unplanned event or factor which likely prevents or significantly interferes with a client's employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, domestic violence, homelessness, and/or health safety risk. *Id.*, p. 6.

During a triage appointment on May 2, 2018, Petitioner asserted good cause by claiming that she could not attend PATH because she must stay home to breastfeed Baby. Petitioner supported her claim with a letter from her medical facility. MDHHS appeared to reject Petitioner's claim of good cause because of the peculiarity of Petitioner's claim. Petitioner's excuse was unusual, but it was an unplanned factor that was corroborated in writing by a medical provider.

Given the evidence, Petitioner established good cause for failing to attend PATH. Accordingly, the termination of Petitioner's FIP eligibility was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. 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 June 2016;
- (2) Supplement Petitioner for any benefits improperly not issued; and
- (3) Remove any relevant disqualification from Petitioner's disqualification history.

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

Cindy Tomczak
MDHHS-Berrien-Hearings

Petitioner

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[REDACTED]
[REDACTED] MI [REDACTED]

BSC4
B Sanborn
G Vail
D Sweeney
C Gardocki
MAHS