



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: June 29, 2018
MAHS Docket No.: 18-005324
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, an in-person hearing was held on June 21, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by Aspaceia Fisher, Family Independence Specialist and Shelia Talley, Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits effective March 1, 2018?

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 recipient of FIP benefits.
2. On January 17, 2018, the Department sent Petitioner a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice which notified Petitioner that she was required to attend the PATH program on January 24, 2018 at 9:00 a.m.
3. Petitioner failed to attend the PATH appointment.
4. On February 5, 2018, the Department sent Petitioner a Notice of Noncompliance which scheduled a triage appointment for February 13, 2018 at 1:30 p.m.

5. On February 5, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FIP benefits would close effective March 1, 2018 for failure to participate in self-sufficiency activities.
6. The purpose of a triage is to allow the client an opportunity to establish good cause for noncompliance.
7. Petitioner contacted her assigned worker by email to request that the triage be held by telephone.
8. Petitioner's assigned worker did not respond to Petitioner's email.
9. The triage was not held.
10. On February 12, 2018, Petitioner filed a Request for Hearing disputing the Department's actions.

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.

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause. BEM 233A (April 2016), p. 1.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2018), p. 1.

A client can be excused from participation in the PATH program if he/she can establish good cause. 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 for

member adds and recipients. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments. BEM 233A, p 4.

Additionally, a Work Eligible Individual (WEI) and a non-WEI who fails, 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 of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. *Id.*

The Department testified that Petitioner received several deferrals from the PATH program. One of the deferrals specifically addressed transportation. Petitioner stated that her long commute prevented her from attending the PATH program. The Department provided Petitioner with a 90-day deferral to resolve her transportation issue.

Petitioner testified that she did not attend the PATH program because her commute to the PATH program is three hours in length. Under Department policy, good cause for failing to attend PATH exists if the total commuting time exceeds:

- Two hours per day, not including time to and from child care facilities **or**
- Three hours per day, including time to and from child care facilities. BEM 233A, p. 7.

Petitioner testified that she lives five miles from the location in which she is required to attend PATH. The Department has provided Petitioner with a list of daycare facilities located in close proximity to the PATH Appointment location. Petitioner provided testimony that one of the day care entities was full and not accepting children. It is unclear as to whether Petitioner is able to provide evidence that she has researched each day care facility on the list provided by the Department to determine whether they have space available for her child. Further, it is unclear if the Department has taken any steps to verify that Petitioner's commute actually takes three hours.

When an individual is placed into non-compliance for failing to attend PATH, a triage must be conducted to allow the client an opportunity to establish good cause. Petitioner was scheduled for a triage on February 13, 2018 at 1:30 p.m. Prior to the date of the triage, Petitioner sent an email to her assigned worker to request to have the triage conducted by telephone. Petitioner's assigned worker failed to respond to the email and failed to contact Petitioner on the date of the triage. Under Department policy, PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Because Petitioner was not afforded an opportunity to establish good cause, it is

found that the Department improperly closed Petitioner's FIP benefits effective March 1, 2018.

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 did not act in accordance with Department policy when it closed Petitioner's FIP benefits effective March 1, 2018.

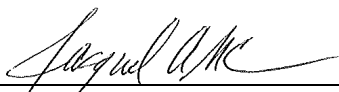
DECISION AND ORDER

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 benefits effective March 1, 2018;
2. Remove any sanction associated with Petitioner's February 2018 non-compliance;
3. Issue supplements Petitioner was eligible to receive but did not effective March 1, 2018; and
4. Notify Petitioner of its decision in writing.

JAM/tlf



Jacquelyn A. McClinton
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

