



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 29, 2018
MAHS Docket No.: 18-001670
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 28, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Shaton Mason, Eligibility Specialist; Kathy McKeown-Orton; and LaFunda Sibley, PATH Coordinator.

ISSUES

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

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefit 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. Petitioner was an ongoing FIP and FAP recipient.
2. In [REDACTED] 2017, Petitioner was referred to the PATH program and was scheduled to attend orientation.
3. On January 30, 2018, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FIP benefit case was closing and her FAP benefits

were being reduced effective March 1, 2018, ongoing, as a result of her noncompliance with self-sufficiency-related activities. Petitioner was also notified she was subject to a 3-month sanction (Exhibit B).

4. On [REDACTED], 2018, a triage appointment was held, and the Department determined Petitioner did not have good cause for her failure to attend PATH.
5. On February 6, 2018, Petitioner requested a 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 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.

In this case, the Department testified that Petitioner was referred to the PATH program in [REDACTED] 2018. The Department did not present evidence that Petitioner was sent a PATH appointment notice advising her of a scheduled orientation appointment. However, Petitioner testified she believed it was scheduled on or around [REDACTED], 2018.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Noncompliance with self-sufficiency-related activities includes failing to appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment or other service provider.

BEM 233A, p. 2. Penalties include 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. BEM 233A, p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2. For FAP cases, a client will be disqualified when: (i) the client was active for both FIP and FAP on the date of the noncompliance; (ii) the client did not comply with FIP employment requirements; (iii) the client is subject to a penalty on the FIP program (iv) the client is not deferred from FAP work requirements; and (v) the client did not have good cause for the noncompliance BEM 233B (July 2013), p. 3.

The Department testified that Petitioner did not attend her PATH orientation within the required timeframe. The Department sent Petitioner a Notice of Case Action on November 20, 2017, informing her that her FIP benefit case was closing and her FAP benefits were being reduced for failure to comply with PATH requirements. The Department testified that Petitioner was also sent a Noncompliance Notice informing her that she had a triage meeting scheduled on [REDACTED], 2018.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8. If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. BEM 233B, p. 2.

The Department testified that Petitioner was present at the [REDACTED] 2018 triage appointment. The Department stated that Petitioner did not establish good cause for her failure to attend her PATH orientation appointment.

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. BEM 233A, p. 4. Good cause includes an unplanned event such as a health or safety risk. BEM 233A, p. 5. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8.

First, the Department's testimony as to why good cause was not established was extremely confusing. The Department's witness that attended the triage provided testimony that was contradictory and difficult to understand. Second, the Department testified that Petitioner was rereferred to PATH in [REDACTED] 2018. When asked why Petitioner was rereferred, the Department stated that Petitioner provided medical

documentation that established good cause for her failure to attend the PATH orientation in [REDACTED] 2018. Therefore, it is evident that Petitioner did establish good cause and the Department did not act in accordance with policy when it closed her FIP benefits and reduced her FAP benefits.

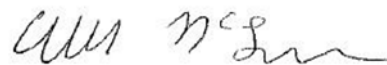
DECISION AND ORDER

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 benefit case and subjected her to a three-month penalty. The Department also failed to act in accordance with policy when it disqualified Petitioner from the FAP group.

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. Redetermine Petitioner's FIP and FAP eligibility as of March 1, 2018, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements she was entitled to receive but did not as of March 1, 2018, ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements she was entitled to receive but did not as of March 1, 2018, ongoing
4. Petitioner is not to be disqualified from the FAP group;
5. Remove all self-sufficiency-related noncompliance penalties from Petitioner's FIP benefit case on or about March 1, 2018;
6. Notify Petitioner of its FIP/FAP decision in writing



EM/cg

Ellen McLemore
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

Via Email:

MDHHS-Wayne-55-Hearings
G. Vail
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

