



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 5, 2018
MAHS Docket No.: 18-003892
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 June 4, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Marlon Dorsey, Family Independence Manager and Natasha Scriptor, Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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 recipient.
2. Petitioner was previously deferred from participating in employment-related activities due to the birth of her child, but the deferral ended.
3. On February 15, 2018, the Department sent Petitioner a PATH Appointment Notice informing Petitioner that she was scheduled to attend her PATH orientation on [REDACTED], 2018 (Exhibit A).
4. On March 2, 2018, Petitioner spoke with her worker and told her she could not attend PATH due to child care. Petitioner was advised to apply for childcare.

5. On March 6, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective April 1, 2018, ongoing (Exhibit B). Petitioner was also advised she was subject to a six-month sanction.
6. On March 6, 2018, the Department sent Petitioner a Notice of Noncompliance informing Petitioner that she was noncompliant with PATH and a triage was scheduled on [REDACTED], 2018 (Exhibit C).
7. On [REDACTED], 2018, Petitioner did not attend her triage appointment and good cause was not found.
8. On April 9, 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.

In this case, Petitioner was referred to PATH as a result of her deferral ending. On February 15, 2018, the Department sent Petitioner a PATH Appointment Notice informing her that she was scheduled to attend an orientation on [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. 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.

The Department testified that Petitioner's FIP benefit case closed because she failed to attend her PATH orientation. Petitioner's last day to attend orientation was [REDACTED], 2018 (Exhibit E). Petitioner did not attend orientation by that date. As a result, the

Department sent Petitioner a Notice of Noncompliance on March 6, 2018, stating she was noncompliant with PATH and that her triage was scheduled on [REDACTED] 2018. The Department also sent Petitioner a Notice of Case action informing her that her FIP benefit case was going to be closed effective April 1, 2018, ongoing, and that she would be subject to a six-month sanction. The Department provided evidence that this was Petitioner's second FIP sanction (Exhibit F).

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.

The Department testified that Petitioner did not attend the triage appointment. However, the Department was aware that on March 2, 2018, Petitioner reported childcare issues as a barrier to attend PATH. Petitioner reported that she did not have family members to help care for her child and she did not apply for daycare assistance. The Department determined Petitioner did not have good cause for her noncompliance.

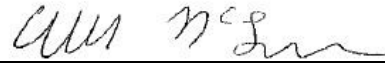
Good cause for noncompliance includes that the client requested child care services from the Department, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5.

At the time of the March 2, 2018 conversation, Petitioner had not requested child care services. Petitioner also did not attend the [REDACTED], 2018 triage to provide updated or additional information regarding her childcare issues or whether she had applied for child care services. Therefore, the Department properly determined Petitioner did not have good cause her failure to comply with PATH. Thus, the Department acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a six-month sanction.

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 acted in accordance with Department policy when it closed Petitioner's FIP benefit case and subject her to a six-month sanction. Accordingly, the Department's decision is **AFFIRMED**.

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) 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

Via Email:

MDHHS-Kent-1-Hearings
G. Vail
D. Sweeney
BSC3- Hearing Decisions
MAHS

Petitioner - Via First-Class Mail:

