



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 20, 2018
MAHS Docket No.: 18-005303
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 July 18, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator and Michael Heck, PATH Worker.

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. On [REDACTED], 2017, Petitioner gave birth to her child and received a temporary deferral from participating in employment-related activities.
3. On March 1, 2018, the Department sent Petitioner a PATH Appointment Notice, informing her that her PATH orientation was scheduled on [REDACTED], 2018 (Exhibit D).
4. On March 20, 2018, the Department sent Petitioner a Notice of Noncompliance informing her that she was noncompliant and that a triage was scheduled on [REDACTED], 2018 (Exhibit E).

5. On March 20, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective May 1, 2018, ongoing, and that she was subject to a 6-month sanction (Exhibit F).
6. On [REDACTED], 2018, Petitioner failed to attend the triage and good cause was not found (Exhibit G).
7. On May 23, 2018, Petitioner submitted 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.

In this case, Petitioner was an ongoing FIP recipient and was previously deferred from participating in employment-related activities as a result of giving birth to her child. When Petitioner's deferral ended, she was rereferred to PATH and was sent a PATH Appointment Notice informing her that she was scheduled to attend orientation on [REDACTED], 2018.

All Work Eligibility Individuals (WEI), unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. BEM 230A (October 2015), p. 4. Most WEIs are referred to the Partnership. Accountability Training. Hope. (PATH) program provided by the one-stop service center serving the client's area when one of the following exists: (i) a WEI applies for FIP; (ii) a WEI applies to be a member added to a FIP group; or (iii) a WEI is no longer temporarily deferred from employment services. BEM 230A, p. 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Noncompliance includes failing or refusing to appear and participate in PATH or other employment 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.

The Department testified that Petitioner did not attend her PATH orientation. As a result, the Department sent Petitioner a Notice of Case Action on March 20, 2018, informing her that her FIP benefit case was closing effective May 1, 2018, ongoing, and that she

was subject to a 6-month sanction. The Department also sent Petitioner a Notice of Noncompliance on March 20, 2018, informing her that she was noncompliant and that she had a triage 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.

Petitioner did not attend the [REDACTED], 2018 triage. As such, the Department stated that Petitioner did not establish good cause for her failure to attend PATH orientation, as she was not present at the triage and did not provide an explanation for her absence.

At the hearing, Petitioner testified that she received the PATH orientation notice. Petitioner stated that she lost the notice and went to a Department location to seek assistance on [REDACTED], 2018. Petitioner stated that she spoke with at the individual at the front desk who advised her she would look into the matter. Petitioner testified that the individual provided her with a contact number and to call by the following Friday if she had not received a response. Petitioner stated she called the individual the following Friday but did not receive a return phone call. Petitioner did not contact her worker to inform him that she missed her PATH orientation. Petitioner stated she received the Notice of Case Action but not the triage notice, and therefore, was unaware of the triage appointment. Petitioner testified that she receives her mail at a family member's residence and not her own because of an issue with the individual that delivers her mail at her residence.

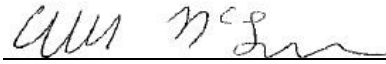
Petitioner did not timely attend her PATH orientation as required. Petitioner also did not attend the triage meeting to provide an explanation for her failure to attend PATH, and therefore, could not have established good cause. Petitioner's explanation as to why she failed to attend her PATH orientation was not reasonable. Petitioner did not at any point contact her worker to inform him that she did not attend her PATH orientation. Also, Petitioner stated she did not receive the notice of the triage appointment but did receive all of the other notices. However, the Department issues the Notice of Case Action with the Notice of Noncompliance. Therefore, the Department properly followed policy when closing Petitioner's FIP benefit case.

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.

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

Petitioner – Via First-Class Mail:

