



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 10, 2018
MAHS Docket No.: 18-006012
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 1, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] hearing facilitator.

ISSUES

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

The second issue is whether MDHHS properly included previously-issued FIP benefits in determining Petitioner's ongoing Food Assistance Program (FAP) 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. Petitioner was an ongoing recipient of Food Assistance Program (FAP) benefits.
2. On January 18, 2018, Petitioner applied for FIP benefits. Petitioner's application reported a disability.
3. On an unspecified date, MDHHS approved Petitioner's FIP eligibility.

4. On an unspecified date, MDHHS forwarded Petitioner's claim of disability to the Medical Review Team (MRT) for the purpose of evaluating Petitioner's ability to participate with PATH. MDHHS delayed Petitioner's PATH participation pending the conclusion of the evaluation of Petitioner's claimed disability.
5. On May 16, 2018, the MRT determined Petitioner was capable of attending PATH and that she could perform simple and unskilled employment. (Exhibit A, pop. 6-40)
6. On May 21, 2018, MDHHS mailed Petitioner a PATH Appointment Notice scheduling Petitioner to attend PATH orientation on May 29, 2018. (Exhibit A, p. 41)
7. As of May 21, 2018, Petitioner homeschooled her child.
8. On May 29, 2018, Petitioner failed to attend PATH orientation.
9. On June 9, 2018, MDHHS mailed Petitioner a Notice of Noncompliance informing Petitioner that she was non-compliant with employment-related activities due to Petitioner's failure to make initial contact with PATH. A triage appointment was scheduled for June 15, 2018. The notice also informed Petitioner of a 3-month disqualification of FIP benefits and a 1-month minimum disqualification of FAP benefits. (Exhibit A, pp. 47-48)
10. On June 9, 2018, MDHHS initiated termination of Petitioner's FIP eligibility, effective July 2018. MDHHS also imposed a 3-month employment-related disqualification, due to Petitioner's alleged non-compliance with employment-related activities. MDHHS also factored Petitioner's former FIP benefit in determining Petitioner's ongoing FAP eligibility beginning July 2018. (Exhibit A, pp. 42-46)
11. On June 14, 2018, Petitioner requested a hearing to dispute the termination of FIP benefits. Petitioner also disputed the inclusion of the stopped FIP benefits in her FAP eligibility determination. Petitioner alleged good cause for not attending PATH due to her homeschooling obligation, disability, lack of transportation, and lack of child care. (Exhibit A, pp. 2-4)
12. On June 15, 2018, a triage meeting was held. Petitioner did not attend the triage. MDHHS gave no good cause for Petitioner's failure to participate in PATH.

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. MDHHS presented a Notice of Case Action (Exhibit A, pp. 42-46) dated June 14, 2018. The notice informed Petitioner of a FIP termination due to Petitioner's failure to participate with employment-related activities. Specifically, MDHHS alleged that Petitioner failed to begin PATH participation.

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. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. 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. Failing to appear and participate with PATH without good cause is noncompliance. *Id.*

A Work Eligible Individual (WEI) 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. *Id.*, p. 1. 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. *Id.*

Petitioner contended that she was disabled and should have been deferred from PATH participation. Petitioner also contended that the evaluation of her disability was flawed and should be corrected by the administrative hearing process.

When a deferral from PATH participation is not granted, it is not a loss of benefits, termination or negative action. BEM 230A (October 2015), p. 18. When clients request hearings based on not being granted a deferral, MDHHS is to advise the client at the pre-hearing conference and use the Hearing Summary to inform the administrative law judge that a denied deferral did not result in a loss of benefits or services. *Id.*

MDHHS policy precludes administrative review of disability evaluations concerning PATH participation because it is not a decision that directly impacts benefits. Given MDHHS policy, Petitioner may not seek an administrative review of the decision denying her request for deferral from PATH participation.

Concerning, whether Petitioner was noncompliant, the evidence established that MDHHS mailed Petitioner notice of a PATH appointment dated May 29, 2018. Petitioner did not attend the PATH appointment. Petitioner did not allege unawareness of the appointment. Petitioner acknowledged not attending the appointment. Petitioner's failure to attend PATH is a proper basis for MDHHS to find Petitioner to be noncompliant with employment-related activities.

Participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.*, p. 9. MDHHS is to determine good cause during triage and prior to the negative action effective date. p. 12.

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. *Id.*, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.*, pp. 4-7. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. *Id.*, p. 10. If the client establishes good cause within the negative action period, MDHHS is to reinstate benefits. *Id.*, p. 13.

Petitioner's hearing request was submitted to MDHHS on June 14, 2018. Petitioner's triage was scheduled for June 15, 2018. Though Petitioner did not attend the triage, MDHHS should have been aware of Petitioner's claims of good cause from her hearing request which specifically stated that she lacks transportation, child care, and is obligated to homeschool her child. Given Petitioner's notice of good cause in her hearing request (and possibly before then), Petitioner's claims of good cause must be considered.

Petitioner claimed that homeschooling her child is good cause for not attending PATH. Homeschooling is not among the various categories of good cause outlined by MDHHS policy. Given the absence of homeschooling as a basis for good cause, MDHHS could not have excused Petitioner from PATH attendance due to Petitioner's choice to homeschool her child.

Petitioner also claimed mental unfitness as good cause for failing to attend PATH. Petitioner's hearing request stated that she is anxious and depressed. Petitioner also claimed unclear thinking whenever she leaves her home. MDHHS' disability evaluation

included a summary of a DHS-49D (see Exhibit A, p. 8) which was consistent with Petitioner's claims; the DHS-49d was summarized as stating that Petitioner was unable to leave her home and that she had poor insight and judgment. Consideration will not be given to the statements from the DHS-49D for two reasons.

First, Petitioner did not provide medical documents to support her claim of good cause. The only documentary evidence supporting Petitioner's claim was the DHS-49D summary. The summary did not include the name of the person signing the document or a date. The limited evidence of Petitioner's claim supports rejecting a conclusion of good cause.

Secondly, the DHS-49D was considered by MDHHS and rejected as a basis for deferral from PATH participation. Factoring medical documents considered in PATH deferral evaluations would equate to administrative review of a claim of disability. As noted above, MDHHS policy precludes administrative review of claims of disability. Given the evidence, Petitioner did not establish good cause based on mental unfitness.

Petitioner additionally claimed that transportation and a lack of child care prevented PATH attendance. Transportation is rejected as good cause because it was not established that Petitioner was denied transportation assistance from MDHHS before Petitioner's PATH appointment. Child care is also rejected as a basis of good cause as it was not established that Petitioner claimed a need for child care until the time she requested a hearing. For example, Petitioner never submitted an application to MDHHS requesting help with day care.

Given the evidence, Petitioner did not have good cause for failing to attend PATH. Thus, MDHHS properly terminated Petitioner's FIP eligibility. As this was Petitioner's first time being non-compliant (see BEM 233A), a disqualification period of 3 months is proper.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute FAP eligibility. Petitioner's only dispute concerned the continuing factoring of FIP benefits in her ongoing FAP eligibility.

MDHHS is to disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.

- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B). BEM 233B (January 2018) p. 3.

Bridges (the MDHHS database) applies policies associated with a FIP related noncompliance and budgets the last FIP grant amount into the FAP budget. The FIP grant is removed from the FAP budget at the end of the FIP penalty period. *Id.*

Petitioner's noncompliance in attending PATH occurred at a time when Petitioner received FAP and FIP benefits. Grounds for deferral appeared to be inapplicable or rejected (e.g. needed for care of a child under 6, receipt of unemployment benefits, disability...). Given the evidence, MDHHS properly factored previously-issued FIP benefits in determining Petitioner's ongoing FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FIP eligibility following Petitioner's first employment-related activity non-compliance resulting in a 3-month disqualification. It is further found that MDHHS properly budgeted FIP benefits in Petitioner's ongoing FAP eligibility. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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

[REDACTED]

Petitioner

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