



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 8, 2019
MAHS Docket No.: 19-000362
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 27, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Chantel Wilbon Eligibility Specialist. Department Exhibit 1, pp. 1-313 was received and admitted. Petitioner Exhibit A, pp. 1-2 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) for failing to participate with PATH?

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 a recipient of FIP benefits receiving \$403 per month.
2. On December 7, 2018, Petitioner was found to be capable of light, unskilled work by the Medical Review Team and capable of participating with PATH.
3. On December 12, 2018, a PATH appointment notice was sent to Petitioner instructing her to appear at a PATH appointment for December 19, 2018.
4. On December 31, 2018, Notice of Case Action was sent to Petitioner informing her that her FIP benefits would close effective February 1, 2019, for failing to participate with employment and self-sufficiency related activities.

5. On January 7, 2019, Petitioner requested hearing contesting the closure of FIP benefits.
6. Petitioner was sent a triage appointment notice for a January 9, 2019 triage meeting.
7. Petitioner failed to appear at triage.
8. Petitioner provided a letter from her treating physician dated March 26, 2018 that reads as follows: "The following restrictions apply to Ms. [REDACTED] Sitting- 5 minutes at a time then has to change position, standing- 5 minutes at a time then has to change position. Walking- 5 minutes maximum, lifting- only items less than 10 pounds and not repetitively, use of stairs- one flight, reaching- less than 5 minutes at a time, it strains her back, gripping/grasping- less than 5 minutes as has numbness and tingling in hands from neck pain." (Ex. A, pp.1-2)

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.

GOOD CAUSE FOR NONCOMPLIANCE

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.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period.

Good cause includes the following:

Employed 40 Hours

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

Reasonable Accommodation

The MDHHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

No Child Care

The client requested child care services from MDHHS, 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.

- **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider.** The provider meets applicable state and local standards. Also, license exempt providers who are not licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA) Bureau of Community and Health Systems (BCHS) must meet Child Development and Care (CDC) enrollment requirements; see BEM 704.
- **Affordable.** The child care is provided at the rate of payment or reimbursement offered by CDC.

No Transportation

The client requested transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, dis-ability, gender, color, national origin or religious beliefs.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

Comparable Work

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

Long Commute

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.

Clients Not Penalized

Ineligible caretakers, disqualified aliens, and single parents who cannot find appropriate child care for a child under age six are not required to participate; see BEM 230A for required verification. BEM 233A

In this case, Petitioner was previously deferred from participating with PATH due to disability. The assessment provided by Petitioner's treating physician did not change following her previous deferment. Petitioner credibly testified that she is physically unable to participate with PATH due to her physical and mental health symptoms. Petitioner provided an assessment from her treating physician that supports her testimony and demonstrated her inability to participate with PATH. (Ex. A, pp. 1-2) Petitioner has good cause for failing to participate with PATH because she is physically and mentally unfit to participate with PATH due to her disabilities. BEM 233A

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 case for failing to participate with PATH.

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 going back to the date of closure.
2. Issue a supplement for any missed FIP benefits.

AM/nr



Aaron McClintic
Administrative Law Judge
for Robert Gordon, 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

Mark Epps
4809 Clio Road
Flint, MI
48504

Genesee Clio County DHHS- via
electronic mail

BSC2- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

H. Norfleet- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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