



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 12, 2019
MOAHR Docket No.: 19-004920
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 10, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Nati Campos, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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. On February 26, 2019, Petitioner's FIP case was closed due to a child support sanction.
2. On March 25, 2019, Petitioner's FIP case was reinstated after compliance with child support requirements.
3. On the same day, a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice was sent to Petitioner at [REDACTED] informing her that she was required to attend a PATH orientation on April 1, 2019, at 9:30 AM at the [REDACTED] Service Center or within 15 days of the notice.

4. On March 26, 2019, the Department updated Petitioner's address of record to [REDACTED].
5. Petitioner failed to attend PATH by the deadline.
6. On April 13, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FIP case was closing effective May 1, 2019, for failure to participate in employment and/or self-sufficiency-related activities and that her FIP case would remain closed from May 1, 2019 through July 31, 2019.
7. On the same day, the Department issued a Notice of Noncompliance to Petitioner for a triage appointment on April 25, 2019 at 9:00 AM at the local Department office to explain the circumstances of her noncompliance.
8. On April 25, 2019, a triage meeting was held wherein Petitioner told her caseworker that she did not attend PATH because she thought she had already completed the requirement in the past and did not believe she had to complete the process again.
9. On May 6, 2019, the Department received Petitioner's request for hearing disputing the closure of her FIP case and indicated that she failed to attend PATH because she did not have childcare and because she had previously attended PATH.
10. At the hearing, Petitioner testified that she had failed to attend PATH because she did not receive notice due to the change in her address.

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's FIP case was closed due to noncompliance with PATH requirements. The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (July 2018), p. 1. Federal and state laws require each work-eligible individual in the FIP group to participate in PATH or engage in activities that meet participation requirements. *Id.* A work-eligible individual who

refuses, without good cause, to participate in an assigned employment and/or other self-sufficiency related activity is subject to penalties. *Id.*

Noncompliance with employment and/or self-sufficiency related activities includes failing or refusing to:

- Appear and participate in PATH or other employment service provider.
- Completing a Family Automated Screening Tool as assigned in the first step of the Family Self-Sufficiency Plan (FSSP) process
- Develop an FSSP
- Comply with activities assigned on the FSSP
- Provide legitimate documentation of work participation
- Appear for scheduled appointments or meetings related to assigned activities
- Participate in employment and/or self-sufficiency-related activities
- Participate in a required activity
- Accept a job referral
- Complete a job application
- Appear for a job interview

BEM 233A (July 2018), pp. 2-3. It also includes stating orally or in writing a definite intent not to comply with program requirements, as well as threatening, physically abusing, or otherwise behaving disruptively, and refusing employment support services. BEM 233A, p. 3.

Good cause for noncompliance may be established when a client has 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. Examples include employment of 40 hours per week, illness or injury, no childcare when requested, no transportation where the client requested transportation services from the Department, and other items where the factors are beyond the client's control. If good cause is found, the client is sent back to PATH. BEM 233A, p. 4.

In this case, Petitioner did not attend her PATH appointment. The actual reason for Petitioner's failure to attend PATH is unclear as she has provided three potential reasons at different times. Her first explanation to her caseworker for failure to attend PATH was that she had previously attended and completed the PATH requirements, so she did not believe she was required to attend a second time. Petitioner did not contact her caseworker or a representative of the PATH office to clarify the requirements or confirm her belief. Her next explanation was for her failure to attend PATH was that she did not have childcare for the time she attended PATH. At no point in time did Petitioner contact her caseworker or the PATH office to request assistance with childcare and only mentioned it in her request for hearing. Petitioner's third reason for failing to attend PATH is that she did not receive notice because she had moved. At the hearing,

Petitioner explained that she had tried to inform her caseworker about the circumstances of not receiving the notice, but that he repeatedly spoke over her and would not let her explain. While this may be the case, Petitioner had enough forethought to write in her request for hearing two reasons for why she failed to attend PATH but failed to include the most significant reason being that she had not received notice. Given the inconsistencies in Petitioner's explanations for failure to attend PATH, she has not established good cause.

Noncompliance with employment requirements for FIP, without good cause or a deferral, may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233B (January 2018), p. 1. In FIP cases, noncompliance without good causes results in closure of the FIP case. BEM 233A, p. 8. For the first occurrence, the closure is for three calendar months. *Id.* For the second occurrence, the closure is for six months. *Id.* For a third occurrence, a lifetime sanction is imposed. *Id.* Since this was Petitioner's first instance of noncompliance, the Department properly closed Petitioner's case for three months from May 1, 2019 through July 31, 2019.

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 case for three months due to noncompliance with PATH.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



AMTM/jaf

Amanda M. T. Marler
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Pam Farnsworth
MDHHS-Monroe-Hearings

Petitioner

[REDACTED]
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BSC4
B Sanborn
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G Vail
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