



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 8, 2019
MOAHR Docket No.: 19-005430
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 June 27, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Laurie Ellis Lead Worker, Dana Bongers Lead Worker, Teresa Ware FIM, Jennifer Jones FIS appeared and testified for the Department. Department Exhibit 1, pp. 1-32 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) benefits 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 would was deferred from participation with PATH.
2. On March 13, 2019, a medical packet was sent to the Medical Review Team for medical review.
3. On April 23, 2019, the Department received the Medial Review Team decision finding that Petitioner had significant improvement in her condition, no worsening or deterioration. Petitioner was found to be "work ready with limitations".

4. On April 23, 2019, Petitioner was sent a PATH orientation and appointment notice.
5. On May 10, 2019, Petitioner's FIP benefits were closed for failing to attend PATH orientation.
6. A triage meeting was held on May 16, 2019, and Petitioner was found to not have good cause. Petitioner failed to appear for the triage meeting.
7. On May 17, 2019, Petitioner requested hearing disputing the closure of FIP benefits.
8. Petitioner's appeal for social security disability benefits was denied in August 2018.
9. Petitioner submitted a medical needs form dated May 28, 2019, that opines that she is not able to work her previous employment or any job for 12 months. The medical needs form did not give an opinion regarding Petitioner's ability to sit, stand or walk. Petitioner's diagnoses were stated as "brachial plexus disorder, nerve pain left upper extremity."

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 childcare services from MDHHS, PATH, or other employment services provider prior to case closure for noncompliance and childcare 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 childcare 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 childcare 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 childcare facilities or
- Three hours per day, including time to and from childcare facilities.

Clients Not Penalized

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

In this case, Petitioner was found to be work ready with limitations by the Medical Review Team. Petitioner submitted a Medical needs form completed by [REDACTED] on May 28, 2019, that opines that Petitioner is unable to perform her previous job or any job for 12 months. (Ex. A, pp.1-2) The portion of the form that assesses her ability to sit stand and walk was not completed. Petitioner testified that she has limited use of her left hand. Petitioner testified that she is taking Neurontin which has side effects including drowsiness and dizziness. Petitioner testified that she is receiving chore services. Petitioner testified that she did not receive notice of the triage meeting until the day of the meeting.

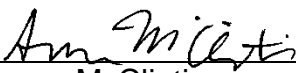
Petitioner has limitations related to an injury she suffered to her non-dominant left hand. The Medical Review Team determined after reviewing her medical records that Petitioner is "work ready with limitations". The undersigned Administrative Law Judge does not have the authority to overrule that determination. However, the undersigned Administrative Law Judge does consider whether Petitioner has "good cause" for failing to participate with Work First pursuant to BEM 233A. Petitioner failed to establish that she has good cause for failing to participate with PATH due to being physically unfit for the job or activity. Petitioner is capable to participating with PATH and exploring job prospects that may be able to accommodate her limitations. Therefore, the Department closure and imposition of sanction was proper and correct. 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 acted in accordance with Department policy when it closed Petitioner's FIP benefits for failing to participate with PATH without good cause.

DECISION AND ORDER

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

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 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

Renee Olian
322 Stockbridge
Kalamazoo, MI
49001

Kalamazoo County DHHS- via electronic
mail

BSC3- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

H. Norfleet- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

ASHLEY WILLIAMS
142 HUTCHINSON ST
APT D
KALAMAZOO, MI 49001

Date Mailed: July 8, 2019
MOAHR Docket No.: 19-005430
Agency No.: 115151414
Petitioner: Ashley Williams

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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

In this case, Petitioner was found to be work ready with limitations by the Medical Review Team. Petitioner submitted a Medical needs form completed by Kimberly Thayer on May 28, 2019, that opines that Petitioner is unable to perform her previous job or any job for 12 months. (Ex. A, pp.1-2) The portion of the form that assesses her ability to sit stand and walk was not completed. Petitioner testified that she has limited use of her left hand. Petitioner testified that she is taking Neurontin which has side effects including drowsiness and dizziness. Petitioner testified that she is receiving chore services. Petitioner testified that she did not receive notice of the triage meeting until the day of the meeting.


Petitioner has limitations related to an injury she suffered to her non-dominant left hand. The Medical Review Team determined after reviewing her medical records that Petitioner is "work ready with limitations". The undersigned Administrative Law Judge does not have the authority to overrule that determination. However, the undersigned Administrative Law Judge does consider whether Petitioner has "good cause" for failing to participate with Work First pursuant to BEM 233A. Petitioner failed to establish that she has good cause for failing to participate with PATH due to being physically unfit for the job or activity. Petitioner is capable to participating with PATH and exploring job prospects that may be able to accommodate her limitations. Therefore, the Department closure and imposition of sanction was proper and correct. BEM 233A

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Renee Olian
322 Stockbridge
Kalamazoo, MI
49001

Kalamazoo County DHHS- via electronic
mail

BSC3- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

H. Norfleet- via electronic mail

D. Sweeney- via electronic mail

Petitioner

Ashley Williams
142 Hutchinson St Apt D
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