



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]

Date Mailed: August 6, 2019
MOAHR Docket No.: 19-006740
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 July 31, 2019 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. Translation services were provided through a third-party interpreter service. [REDACTED] was the first interpreter. [REDACTED] was the second interpreter.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to noncompliance with Partnership. Accountability. Training. Hope (PATH) requirements?

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 March 5, 2019, the Department received a completed Medical Needs-PATH form on which his first doctor indicated "[y]es, he may be able to do some short period of time with breaks" in response to the question of whether Petitioner could attend training in a classroom setting.
2. On April 25, 2019, the Department issued a PATH Appointment Notice to Petitioner informing him that he was scheduled to attend PATH on May 6, 2019 at 9:00 AM at the Michigan Works! Agency (MWA) office located in [REDACTED], Michigan.

3. On April 26, 2019, Petitioner visited the local office to learn more about the requirements and what was expected of him with the aid of an interpreter.
4. During that meeting, Petitioner told his caseworker that he would not be able to attend PATH because his disability might cause him to disrupt the classes by yelling and making other disturbances; therefore, Petitioner was given a copy of the Medical Needs Form and told to have his doctor fill it out and return it.
5. On the same day, the Department mailed a Verification Checklist (VCL) to Petitioner requesting proof of his disability through a physician's statement, medical records, a medical needs form, or other similar item due by May 6, 2019 (the same day as his PATH appointment).
6. Petitioner did not attend his PATH orientation, nor did he submit any medical documentation support his disability.
7. On May 14, 2019, the Department issued a Notice of Noncompliance for the FIP to Petitioner informing him that because he failed to attend the PATH orientation, he was determined to be in noncompliance for the first occurrence, his case would be closed for a minimum of three months, and he was scheduled for a triage appointment on May 23, 2019 at 9:00 AM at the local Department office.
8. On the same day, the Department also issued a Notice of Case Action to Petitioner informing him that his FIP case was closed effective April 1, 2019 because he failed to participate in employment and/or self-sufficiency-related activities.
9. On June 10, 2019, the Department received a completed Medical Needs-PATH form for Petitioner from another doctor indicating that Petitioner has "gross confusion and memory loss. He needs to be deferred until at least his next office visit in August 2019 so all testing can be completed."
10. On June 13, 2019, the Department issued another Notice of Noncompliance for the FIP and Food Assistance Program (FAP) to Petitioner indicating that he had failed to attend his PATH orientation, was in noncompliance for the first occurrence, and had a triage appointment schedule for June 20, 2019 at 9:00 AM with the Department local office.
11. On June 19, 2019, the Department received Petitioner's request for hearing disputing the denial or closure of his FIP case based upon noncompliance with PATH in addition to a copy of a completed Medical Needs form.
12. On June 20, 2019, Petitioner attended his triage appointment and brought a completed Medical Needs form.

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 disputes the closure of his FIP case for failure to comply 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-sufficient 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, 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.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A, p. 11. Short-term incapacity and its length can be verified by using a DHS-54-A, Medical Needs, or DHS-54-E Medical Needs-PATH form, or other written statement from a Medical Doctor, Doctor of Osteopathic Medicine, or Physician's Assistant. *Id.*

For long-term-incapacity clients, those that have an incapacity, disability, or inability to participate in PATH for more than 90 days, the client is deferred in Bridges. *Id.* Once a client claims a long-term disability, the client must provide the Department with verification of the disability showing it will last longer than 90 days. BEM 230A, p. 12. The Disability Determination Service (DDS) determines whether the client is able to participate in PATH. Clients determined as work ready with limitations are required to participate in PATH as defined by DDS. BEM 230A, p. 13. The Department must end the disability in Bridges, update the client's file as work ready with the defined limitations from DDS, and Bridges generates the referral to PATH. *Id.*

The Department provided Petitioner with a Medical Needs-PATH form and gave him ten days to provide the form or he could attend his scheduled PATH appointment. Petitioner did neither. He admits that he was late in submitting the second Medical Needs-PATH form because his original doctor's office would no longer accept him as a patient due to an outstanding bill and he had trouble communicating with the new doctor's office. Petitioner also testified that he attempted to reach out to his case worker on multiple occasions and that he attended the triage appointment in May 2019. However, Petitioner also admits, and the Medical Needs form shows, that Petitioner has difficulties with his memory and confusion. Therefore, Petitioner's assertion that he attended the triage in May and that he attempted to contact his case worker are not credible. Finally, Petitioner's original Medical Needs-PATH form from his original doctor indicates that he is capable of participating in training sessions provided there are breaks. In addition, Petitioner was able to participate in a hearing which lasted almost 90 minutes without incident and without a break. Given the original doctor's statements, Petitioner's participation in the hearing, and the lateness of his second Medical Needs-PATH form, Petitioner has not established that he was eligible for a deferral from PATH or good cause for his failure to participate in PATH. The Department properly closed Petitioner's case.

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 June 1, 2019 through August 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 FIP case.

DECISION AND ORDER

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

AM/tm



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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]