



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 30, 2019
MOAHR Docket No.: 19-007984
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 28, 2019, from Lansing, Michigan. Petitioner was represented by [REDACTED]. The Department of Health and Human Services was represented by Taesha Foster.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Family Independence Program (FIP) benefits?

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 May 1, 2019, the Department notified Petitioner that her Family Independence Program (FIP) benefits would close as of June 1, 2019. See MOAHR Docket No. 19-004996.
2. On June 18, 2019, the Michigan Office of Administrative Hearings and Rules ordered the Department to reinstate Family Independence Program (FIP) benefits and determine whether Petitioner should be deferred from the Partnership. Accountability. Training. Hope. (PATH) program. See MOAHR Docket No. 19-004996.
3. On June 24, 2019, the Department sent Petitioner a PATH Appointment Notice (DHS-4785) instructing her to attend an appointment on July 1, 2019. Exhibit A, p 7.

4. On July 2, 2019, the Department sent Petitioner a Medical Needs – PATH (DHS-54-E). Exhibit A, pp 9-10.
5. On July 2, 2019, the Department sent Petitioner a Medical Determination Verification Checklist (DHS-3503-MRT) requesting verification of an application for Social Security benefits by July 12, 2019. Exhibit A, p 11.
6. Petitioner did not attend or reschedule her July 1, 2019, appointment, and on July 13, 2019, the Department sent her a Notice of Noncompliance (DHS-2444) scheduling a triage meeting for July 22, 2019. Exhibit A, pp 14-15.
7. On July 19, 2019, the Department notified Petitioner that her Family Independence Program (FIP) benefits would be sanctioned effective September 1, 2018. Exhibit A, p 16.
8. On July 22, 2019, the Department received the Medical Needs – PATH (DHS-54-E) form mailed out on July 22, 2019. Exhibit A, pp 17-18.
9. On July 23, 2019, the Department received Petitioner's request for a hearing protesting her disqualification from the Family Independence Program (FIP). Exhibit A, p 3.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (July 1, 2018), p 1.

The Department will not schedule a triage for instances of noncompliance while the FIP application is pending. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (July 1, 2018), p 9.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed. BEM 233A, p 7.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in required activity.

BEM 233A, pp 2-3.

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. BEM 233A, p4.

Good cause includes the following:

- Client Unit: 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.

BEM 233A, pp 4-6.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage

meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

The Department will determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp 9-10.

A Work Eligible Individual (WEI) and non-WEIs, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. 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 of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p 1.

The Department will disqualify a Food Assistance Program (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.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (January 1, 2019), p 3.

Petitioner was an ongoing FIP recipient and the Department had referred her for participation in the PATH program as a work eligible individual. Petitioner reported to the Department that she was unfit to participate in the PATH program and the Department sent her a medical needs form and requested verification of her application for social security benefits.

Petitioner testified that she has a pending appeal with the Social Security Administration regarding her application for disability benefits, and the Department did not dispute the pending appeal.

Petitioner failed to attempt participation in the PATH program on July 1, 2019, and the Department scheduled a triage meeting for July 22, 2019. Petitioner failed to attend the triage meeting, but did return the medical needs form after the triage meeting had been completed in her absence.

Based on the evidence and testimony available during the hearing, Petitioner failed to establish that she has been deferred from the PATH program, and has presented insufficient evidence to establish good cause based on her inability to participate in the PATH program. Having failed to establish good cause for her noncompliance with the PATH program, the Department was acting in accordance with policy when it sanctioned her FIP benefits.

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 sanctioned Petitioner's Family Independence Program (FIP) benefits effective September 1, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Sarina Baber
22 Center Street
Ypsilanti, MI 48198

Washtenaw County, DHHS

BSC4 via electronic mail

H. Norfleet via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]