



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: September 26, 2019
MOAHR Docket No.: 19-009301
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 September 23, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case and sanction him for 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. Petitioner has been an ongoing FIP recipient.
2. Petitioner was sanctioned from the FIP program for a first occurrence between April 1, 2018 and June 30, 2018.

3. In June 2018, the Disability Determination Service (DDS) determined that Petitioner was capable of working; the record is unclear as to the type of disability evaluated by the DDS.
4. As of April 2019, the Department was aware the Petitioner was attempting to claim a disability and request a deferral from PATH requirements; the evidence is unclear if this is the same or a different disability from that reviewed in 2018.
5. From June 6, 2019 through August 2, 2019, Petitioner was attending physical therapy sessions pursuant to his doctor's orders.
6. On June 12, 2019, the Department issued a PATH Appointment Notice to Petitioner for an appointment on [REDACTED] at [REDACTED] at the Michigan Works! [REDACTED] Office.
7. Petitioner did not attend the [REDACTED] PATH Appointment.
8. On July 1, 2019, the Department issued a Notice of Noncompliance to Petitioner because he had failed to make contact with the Michigan Works! Agency (MWA) and scheduled a triage appointment for Petitioner on [REDACTED] and indicated that this was the second incidence of noncompliance resulting in a six-month sanction from the FIP.
9. On the same day, the Department issued a Notice of Case Action to Petitioner informing him that his FIP case would close from August 1, 2019 through January 31, 2020 for noncompliance with PATH requirements for a second occurrence.
10. On August 7, 2019, the Department received Petitioner's request for hearing disputing the closure of his FIP benefits.

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, the Department closed Petitioner's FIP benefits 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-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.*

In this case, the Department was aware as early as April 2019 that Petitioner was attempting to seek a deferral or that he was claiming a disability. Once the Department became aware that Petitioner was seeking a deferral or claiming a disability, the Department should have provided Petitioner with a DHS-54A Medical Needs, DHS-54E Medical Needs-PATH form, or a Verification Checklist (VCL) requesting proof of Petitioner's disability or circumstances. BAM 230A (July 2018), pp. 11-12; BAM 130 (April 2017), pp. 1, 3. The Department concedes that no Medical Needs forms or VCL were issued to client at any time between March 2019 and August 2019. Given that Petitioner was attending physical therapy around the time of his PATH appointment, the Department's failure to request verification of his disability was not in accordance with Department policy.

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 and sanctioned him for six months without attempting to verify his disability or reasoning for attending physical therapy.

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 eligibility effective August 1, 2019;
2. Request verification of Petitioner's disability;

3. Process any verifications provided by Petitioner in accordance with Department policy;
4. Issue supplements to Petitioner for benefits not previously received between August 1, 2019 and the date that the verifications are due;
5. Notify Petitioner in writing of the Department's decision after processing any verifications.

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]
[REDACTED]

Petitioner

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

CC:

[REDACTED]
[REDACTED]