



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: January 25, 2021
MOAHR Docket No.: 20-007768
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 January 20, 2021. Petitioner represented herself. The Department was represented by Barbara Schram, Terri Beavers, and Heidi Kruse.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction Petitioner's cash assistance benefits due to her noncompliance with required work and/or self-sufficiency related activities?

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 [REDACTED] 2020, the Department received Petitioner's application for assistance where she acknowledged the duties and responsibilities of receiving cash assistance. Exhibit A, pp 8-15.
2. On June 16, 2020, the Department sent Petitioner a Jobs and Self-Sufficiency Survey (DHS-619) and instructed her to report any barriers to her participation in employment and self-sufficiency related activities. Exhibit A, pp 20-21.
3. Petitioner's was given a 45-day deferral from participation in the Partnership. Accountability. Training. Hope. (PATH) due to the Covid-19 pandemic.
4. On July 1, 2020, the Department notified Petitioner that she was eligible for cash assistance under the Family Independence Program (FIP) as of July 16, 2020. Exhibit A, pp 22-30.

5. On September 1, 2020, the Department scheduled Petitioner for activities with the Partnership. Accountability. Training. Hope. (PATH) for September 8, 2020. Petitioner's appointment was rescheduled, and she attended an orientation on September 29, 2020, and she was sent job search logs to complete and return. Exhibit A, pp 30-31.
6. On October 19, 2020, the Department determined that Petitioner was noncompliant with the Partnership. Accountability. Training. Hope. (PATH). Exhibit A, pp 32-34.
7. On October 19, 2020, the Department notified Petitioner that a triage meeting had been scheduled for October 29, 2020, to give her an opportunity to establish good cause for her noncompliance with the Partnership. Accountability. Training. Hope. (PATH). Exhibit A, p 32.
8. On October 19, 2020, the Department notified Petitioner that her Family Independence Program (FIP) benefits would be sanctioned for noncompliance with the Partnership. Accountability. Training. Hope. (PATH). Exhibit A, pp 35-40.
9. On October 29, 2020, the Department received Petitioner's "Report Changes" and she reported that she had not returned the material requested for the Partnership. Accountability. Training. Hope. (PATH) because she had "no way to get anywhere" and that she was homeschooling her son. Exhibit A, p 41.
10. On November 2, 2020, the Department notified Petitioner by e-mail that the result of the triage meeting was that she had been found to be noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program without good cause. Exhibit A, p 45.
11. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting her disqualification from the Family Independence Program (FIP). Exhibit A, pp 6-7.

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 through 679c. The Department administers FIP pursuant to 45 CFR 233 through 261, MCL 400.10, the Social Welfare Act, MCL 400.1 et seq, and Mich Admin Code, R 400.3101 through R 400.3131.

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 (January 1, 2021), 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 (December 1, 2020), p 1.

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:
 - o Provide legitimate documentation of work participation.
 - o Participate in employment and/or self-sufficiency-related activities.

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:

- 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.
- No Child Care: The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.
 - o Appropriate. The care is appropriate to the child's age, disabilities and other conditions.
 - o Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.
 - o Suitable provider. The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
 - o Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.
- No Transportation: The client requested transportation services from DHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

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.

On [REDACTED] 2020, the Department received Petitioner's application for assistance where she acknowledged the duties and responsibilities of receiving cash assistance, and she was sent a Jobs and Self-Sufficiency Survey (DHS-619) to identify any barriers to her participation in employment and self-sufficiency related activities.

After a 45-day temporary deferral from participation in the PATH program, Petitioner was given an orientation on September 29, 2020, and was sent activity logs to be completed and returned. Petitioner does not dispute that these activity logs were not returned in a timely manner, and a triage meeting was scheduled for October 29, 2020, where she would have the opportunity to establish good causes for her noncompliance.

Petitioner did not directly participate in the triage meeting directly but submitted an electronic change report where she reported not being able to document the completion of her assigned activities because she was homeschooling her son and that she had not way to get anywhere. Department records indicate that Petitioner had not reported these barriers to completing her assigned tasks before October 29, 2020.

On November 2, 2020, the Department notified her of the determination that she did not have good cause for her failure to return the required activity logs in a timely manner, and that the sanction on her FIP benefits would not be reversed.

Petitioner does not deny that she failed to provide the Department with documentation that she completed the tasks assigned to her on September 29, 2020. "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. No evidence was presented at the hearing that Petitioner reported the barriers identified in the change report before her assignment logs were due, or that she made a reasonable attempt to overcome those barriers before her benefits were sanctioned.

During her January 20, 2021, administrative hearing, Petitioner testified that she had been infected with the Covid-19 virus, which was a barrier to her participation in the PATH program. Petitioner failed to offer evidence of her exposure to the Covid-19 virus and failed to report that illness was a barrier to her completion of her assigned activities at the October 19, 2020, triage meeting.

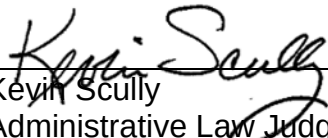
The hearing record supports the Department's finding that Petitioner did not have "good cause" for her failure to return documentation of her compliance with self-sufficiency related activities assigned to her as part of the PATH program.

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 they sanctioned Petitioner's Family Independence Program (FIP) benefits for noncompliance with employment and/or the self-sufficiency related activities of the Partnership. Accountability. Training. Hope. (PATH) program.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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

Barbara Schram - 35
2145 East Huron Road
East Tawas, MI
48730

Iosco County DHHS (MDHHS-GR8North-
Hearings@michigan.gov)- via electronic
mail

BSC1- 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] - via first class mail
[REDACTED], MI
[REDACTED]