



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 12, 2017
MAHS Docket No.: 17-004756
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on May 4, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Dionere Craft, Hearing Facilitator; Kathy McKeown-Orton, Family Independence Specialist; and LaFunda Sibley, Partnership.Accountability.Training.Hope. (PATH) Coordinator. A witness, Brenda Hamilton, Michigan Works Triage Liaison, appeared on behalf of the Department.

ISSUE

Did the Department properly close the Petitioner's Family Independence Program (FIP) Cash Assistance and reduce her Food Assistance Program (FAP) benefits due to failure to comply with work-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. The Petitioner was a recipient of FIP Cash Assistance and FAP and was attending the PATH Program.
2. The Petitioner was assigned to participate in community service by the PATH program.

3. The Department sent the Petitioner a Notice of Noncompliance on March 29, 2017, scheduling a triage on April 4, 2017. The Petitioner attended the triage. (Exhibit C)
4. The Department, after the triage, found that the Petitioner had no good cause for failure to participate in work-related activities as Petitioner was terminated by the Community Service Program on March 1, 2017, due to her conduct in violation of the program's rules on February 28, 2017. (Exhibit B)
5. On March 29, 2017, the Department issued a Notice of Case Action closing the Petitioner's FIP Cash Assistance and decreasing the Petitioner's FAP benefits, effective May 1, 2017, for three months and imposing a first sanction due to failure to participate in employment activities as she was terminated from community service. (Exhibit D)
6. The Petitioner requested a timely hearing on April 4, 2017, protesting the Department's actions.

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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department closed the Petitioner's FIP Cash Assistance and reduced Petitioner's FAP benefits due to her being terminated from a community service assignment Petitioner was assigned to perform as part of her PATH participation obligations. In a letter dated March 1, 2017, the Community Service Program Coordinator terminated the Petitioner from her volunteer job for insubordination. The letter stated that the Petitioner had several disputes with program staff members, and she was asked to leave the premises on February 28, 2017. The Petitioner was also reported to be under the influence of alcohol while attending the program in violation of the program's Community Service Guild Line Agreement. Due to Petitioner's conduct,

she was no longer allowed to volunteer at any of the sites for the Community Service Program in question. (Exhibit B.) Witness Hamilton of the PATH Program testified that she received a call from the volunteer coordinator, as well, to confirm the Petitioner's termination from the program and the reasons for the termination. (Exhibit A.) The Department, after conducting a triage, found the Petitioner had no good cause for her termination from the community program.

The Petitioner denied the allegations against her and blamed the incident on the security guard at the volunteer program for her discharge, stating he was under the influence of alcohol. The Petitioner's testimony was not credible and was unsubstantiated by any of the written evidence from the volunteer program she was discharged from. (Exhibit B)

Department policy governing PATH requirements and participation provides:

MDHHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

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.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. BEM 233A (4/1/17) p. 1.

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:

Participate in employment and/or self-sufficiency-related activities.

Participate in required activity. Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity. BEM 233A, p. 3.

In this case, the Petitioner was terminated from her community service assignment for being insubordinate and for being under the influence of alcohol while participating in volunteer work, which was against the Community Service Program's rules and an agreement she had signed with the program. Under these circumstances, the following policy applies:

Refusing suitable employment means doing **any** of the following:

Firing for misconduct or absenteeism (not for incompetence).

Note: Misconduct sufficient to warrant firing includes any action by an employee or other adult group member that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is not limited to drug or alcohol influence at work, physical violence, and theft or willful destruction of property connected with the individual's work. BEM 233A, p. 3-4.

After a triage, the Department determined there was no good cause for Petitioner's behavior. 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. BEM 233A, p. 4. Behavior that is insubordinate and disruptive, as well as alcohol use, is conduct that is intentional and is harmful to the interest of the employer.

The noncompliance penalty for the first noncompliance without good cause is FIP closure for three calendar months. BEM 233 A, p. 8. In addition, BEM 233B requires that FAP benefits be reduced for one month by removing the Petitioner from receipt of FAP benefits. BEM 233B, p. 12. (See Exhibit D.)

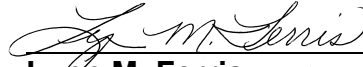
In conclusion, based upon the evidence presented, it is determined that the Department properly closed the Petitioner's FIP and FAP benefits in accordance with Department policy for failure to participate in work-related activities without good cause.

DECISION AND ORDER

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 and sanctioned the Petitioner's FIP case for a three-month period and decreased Petitioner FAP benefits for one month.

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

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Petitioner



DHHS

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