



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 24, 2017
MAHS Docket No.: 17-005299
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 telephone hearing was held on May 22, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Patricia Daniel, Hearings Facilitator; and Adam Slate, Hearings Facilitator.

ISSUES

1. Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on Petitioner's failure to participate in employment and/or self-sufficiency related activities without good cause?
2. Whether the Department properly reduced Petitioner's Food Assistance Program (FAP) benefits based on Petitioner's failure to participate in employment and/or self-sufficiency related activities without good cause?

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 was an ongoing recipient of FIP and FAP benefits.
2. Petitioner was participating in the Partnership.Accountability.Training.Hope. (PATH) program, and she must complete up to 40 hours per week of participation

- in PATH activities, such as community service and job search logs. [Exhibit A, pp. 1 and 15-23.]
3. In January 2017, Petitioner obtained new employment.
 4. In the month of January 2017, the PATH program requested verification of employment from Petitioner in order to show that she was participating in the PATH program and meeting her weekly hour requirements. [Exhibit A, pp. 1 and 18-19.]
 5. Petitioner failed to provide verification of her employment to the PATH program, which resulted in her failure to submit participation requirements for the weeks of [REDACTED] 2017, and [REDACTED] 2017.
 6. The PATH program also attempted to obtain verification of employment directly from the employer, but to no avail. [Exhibit A, pp. 18-19.]
 7. The PATH program recorded no hours of PATH participation for the weeks of [REDACTED] 2017, and [REDACTED] 2017. [Exhibit A, p. 16.]
 8. On or about February 9, 2017, the PATH program sent Petitioner a Noncompliance Warning Notice for her failure to submit minimum participation hours for weeks of [REDACTED] 2017, and [REDACTED] 2017, and informed her to attend a re-engagement appointment scheduled for [REDACTED] 2017. [Exhibit A, p. 18.]
 9. Petitioner failed to attend her re-engagement appointment for [REDACTED] 2017, and a Triage Meeting Notice was issued by the PATH program on February 16, 2017. [Exhibit A, pp. 18 and 25.]
 10. On February 16, 2017, the Department sent Petitioner a Notice of Case Action (DHS-1605) closing Petitioner's FIP case, effective March 1, 2017, based on a failure to participate in employment and/or self-sufficiency related activities without good cause (first sanction). [Exhibit A, pp. 6-11.]
 11. On February 16, 2017, the Notice of Case Action also notified Petitioner that her FAP benefits were reduced effective March 1, 2017, to the amount of \$176 because she failed to participate in employment and/or self-sufficiency related activities without good cause. [Exhibit A, pp. 6-11.]
 12. On February 16, 2017, the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on [REDACTED] 2017. [Exhibit A, pp. 4-5.]
 13. On [REDACTED] 2017, Petitioner failed to attend the triage appointment; however, the Department reviewed Petitioner's case and found no good cause for her failure to participate in employment and/or self-sufficiency related activities. [Exhibit A, p. 14.]
 14. On March 22, 2017, Petitioner filed a hearing request, disputing the Department's action. [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.

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.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 230A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (April 2016), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider, participate in employment and/or self-sufficiency-related activities, provide legitimate documentation of work participation, etc. See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. 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 and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, client unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, comparable work, long commute or clients not penalized. BEM 233A, pp. 4-7.

At the hearing, the Department indicated that Petitioner was required to complete up to 40 hours per week of participation in PATH activities, such as community service and

job search logs. [Exhibit A, pp. 1 and 15-23.] On July 5, 2016, Petitioner signed a PATH Program Contract in which she acknowledged that if she is employed, she must submit a completed Employment Verification to verify her employment and she is required to submit her first two full paystubs to her PATH Employment Specialist as soon as they are received to verify hours worked. [Exhibit A, p. 22.] Several months later, Petitioner obtained new employment in January 2017. As a result of the new employment, the PATH program requested verification of employment from Petitioner in order to show that she was participating in the PATH program and meeting her weekly hour requirements. [Exhibit A, pp. 1 and 18-19.] However, the Department argued that Petitioner failed to provide verification of her employment to the PATH program, which resulted in her failure to submit participation requirements for the weeks of [REDACTED] 2017, and [REDACTED] 2017. The PATH program also attempted to obtain verification of employment directly from her employer, but to no avail. [Exhibit A, pp. 18-19.] The PATH notes also revealed that the PATH specialist contacted Petitioner for the employment verification, but it was never obtained. [Exhibit A, pp. 18-19.] As a result, of Petitioner's failure to record participation hours for the weeks of [REDACTED] 2017, and [REDACTED] 2017, and her failure to attend the re-engagement appointment for [REDACTED] 2017, the Department argued she was in non-compliance with the PATH program. [Exhibit A, pp. 1, 6-11, 14, and 16.]

In response, Petitioner testified that she attempted to give the PATH program her work schedule at the time, but the PATH program would not accept it. Petitioner testified that she was unable to obtain her pay stubs because the pay stubs are handled through a third-party vendor, and she was locked out of the system; and it is difficult to obtain it. Petitioner testified that she had e-mail correspondence showing her attempt to try to get her pay stubs, but did not have them present with her. At the time of the non-compliance, Petitioner testified that she was working approximately 30 hours per week. In April 2017, Petitioner testified that she was finally able to obtain access to her pay stubs.

Additionally, the Department indicated a triage appointment was scheduled for [REDACTED] 2017, but Petitioner failed to attend. [Exhibit A, pp. 1 and 4-5.] Nevertheless, the Department testified that it still reviewed her case and found no good cause for her failure to participate in employment and/or self-sufficiency related activities.

In response, Petitioner testified that she received the Notice of Noncompliance informing of her triage date after it was already held. Petitioner also testified that she had several family members who passed during the weeks of non-compliance and that she was also sick herself.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective March 1, 2017, in accordance with Department policy.

First, the evidence established that Petitioner was in non-compliance with the PATH program because of her failure to submit participation requirements for the weeks of [REDACTED] 2017, and [REDACTED] 2017, and her failure to attend the re-engagement appointment on [REDACTED] 2017. [Exhibit A, pp. 1, 14, and 18-19 and BEM 233A, pp.

2-3.] The undersigned does not find Petitioner's argument persuasive that she attempted to give the PATH program her work schedule to suffice as her employment verification and to show that she was participating during those weeks. Petitioner did not present her work schedule she alleged to provide to the PATH program as part of the evidence record. Nevertheless, prior to this date, Petitioner signed a contract indicating that if she obtained new employment, she would provide an employment verification and pay stubs. [Exhibit A, p. 22.] Petitioner's PATH notes even showed the PATH specialist attempting to contact Petitioner to obtain her employment verification, paystubs, or hours of participation, but to no avail. [Exhibit A, pp. 18-19.] In fact, the PATH specialist attempted on her own to contact the employer to obtain the employment verification, but was unsuccessful. [Exhibit A, pp. 18-19.] Based on this information, the undersigned does not find Petitioner's argument persuasive. Instead, the Department presented by a preponderance of evidence that Petitioner failed submit her participation requirements for the weeks of [REDACTED] 2017, and [REDACTED] 2017, (verification of employment/paystubs) and that she failed to attend her re-engagement appointment on [REDACTED] 2017. As a result, Petitioner was in non-compliance with the PATH program. BEM 233A, pp. 2-3.

Second, the undersigned finds that Petitioner failed to present any good cause reason for her non-compliance. Petitioner testified that she had several family members who passed during the weeks of non-compliance and that she was also sick herself. Good cause includes illness or injury and an unplanned event or factor. BEM 233A, pp. 5-6. However, policy also states that a claim of good cause must be verified and documented for member adds and recipients. BEM 233A, p. 4. Petitioner failed to provide any medical records showing that she had an illness or injury or an obituary regarding her passing of family members. Good cause also included being employed 40 hours, which policy states is a person working at least 40 hours per week on average and earning at least state minimum wage. BEM 233A, p. 5. But, Petitioner's testimony indicated that she was working less than 40 hours per week on average, and she did not present any verification for the hearing that she is working 40 hours a week on average. In sum, Petitioner failed to verify a good cause reason for her non-compliance for the weeks of [REDACTED] 2017, and [REDACTED] 2017. See BEM 233A, pp. 4-7.

Accordingly, the Department acted in accordance with Department policy when it found Petitioner in non-compliance with the PATH program and closed her FIP benefits for her first sanction (three months) effective March 1, 2017. BEM 233A, p. 1.

FAP benefits


Based on the above FIP analysis, the Department acted in accordance with Department policy when it found that Petitioner failed to comply with employment-related activities without good cause and sanctioned Petitioner's FIP case by closing it for a minimum three-month period. See BEM 233A, p. 1. Because the Department properly closed Petitioner's FIP case, it properly reduced Petitioner's FAP benefits by excluding her as a disqualified member of her FAP group. BEM 233B (July 2013), pp. 6-12.

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 (i) the Department acted in accordance with Department policy when it properly closed Petitioner's FIP benefits effective March 1, 2017, (first sanction – three months); and (ii) the Department properly reduced Petitioner's FAP benefits by excluding her as a disqualified member of her FAP group effective March 1, 2017.

Accordingly, the Department's FAP and FIP decision is **AFFIRMED**.

EJF/jaf



Eric J. Feldman
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

[REDACTED]
MI [REDACTED]

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