



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 2, 2017
MAHS Docket No.: 17-007598
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; 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 July 26, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Mark Boyd, FIM and Rodney Duskin, PATH Coordinator. Sarah Adkins, Triage Coordinator for the Southgate PATH office and Stephanie Mayfield, Case Manager of the Southgate PATH office appeared as witnesses.

ISSUE

Did the Department properly close the Petitioner's FIP Cash Assistance and impose a three-month sanction due to Petitioner's failure to participate in the PATH Program 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. The Petitioner was a recipient of FIP Cash Assistance benefits and was assigned to attend the PATH Program and attended until sometime in March 2017.
2. The Petitioner was assigned by the PATH Program to perform volunteer work but did not attend after March 2017.

3. A Notice of Noncompliance dated May 17, 2017 was sent to the Petitioner and a phone triage was conducted on May 23, 2017. Exhibit B. At the conclusion of the triage, the good cause finding between the Department and the PATH Program representatives differed. Due to the differing opinion as to whether good cause had been shown, a phone conference (as required by Department policy) was held on May 24, 2017 with the Department District Manager and other Department supervisory personnel to resolve the disagreement over good cause.
4. After the May 24, 2017 phone conference, it was determined that good cause was not demonstrated due to the falsification of attendance records by the Petitioner.
5. On May 17, 2017, the Department issued a Notice of Case Action closing the Petitioner FIP Cash Assistance effective June 1, 2017 due to failure to participate in employment activities without good cause. The Department also sanctioned the Petitioner with a three-month penalty for the period June 1, 2017 through August 31, 2017. Exhibit A.
6. The Petitioner requested a timely hearing on [REDACTED] 2017.

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 Petitioner was assigned to attend the PATH Program and was initially attending a volunteer program, until it was discovered in May 2017 by the PATH Program that Petitioner was no longer attending the volunteer assignment and had forged her attendance by signing and submitting job attendance sheets with a forged signature. The PATH Program took the actual records submitted by Petitioner to the volunteer program where it was confirmed that the signatures on the job attendance records were forged. The PATH Program also found out that the Petitioner had not attended since March 2017, and confirmed that the signature on four weekly attendance records was forged. Exhibit C, p. 8. The Department caseworker participating in the triage felt good cause should be given due to lack of child care and transportation. The PATH Program believed that the Petitioner should not have been given good cause because she forged attendance records.

Department policy provides:

If the specialist or PATH case manager do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement. The MDHHS supervisor makes the final determination of good cause. BEM 233A, p. 11.

Ultimately, the Department made the final decision and found no good cause based upon the facts presented at the triage.

The issue in this case was whether the Petitioner by her actions of forging attendance records presented good cause. Good Cause is defined as:

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 (April 2016), p. 4.

Although the Petitioner had child care problems and transportation issues, she did not ask for gas vouchers or bus tickets and had not told either her caseworker or the PATH program that she had these issues. Instead, she forged her attendance. Both child care and transportation can be used to establish good cause. In this instance, they did not establish good cause for the reasons Petitioner had not communicated that she had child care issues and transportation issues and because of the Petitioner's forged attendance records. One of the basis for noncompliance is failing to provide **legitimate** documentation of work participation and failing to participate in the required activity without good cause. BEM 233 A, p. 2. Submitting forged attendance records is not providing legitimate work participation documentation. In addition, at no time was Petitioner deferred for lack of child care. BEM 233A, p. 9.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months. BEM 233 A, p. 8.

In this case based upon the evidence presented, it is determined that the Department correctly found no good cause for Petitioner's actions and correctly imposed a three-month sanction for noncompliance without good cause.

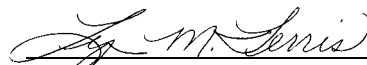
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed the Petitioner FIP Cash Assistance case for failure to comply with work related activities without good cause and correctly imposed a 3-month sanction.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/



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

DHHS

MDHHS0Wayne-57-Hearings
BSC4-HearingDecisions
PATH
(via email)

Petitioner

[REDACTED]
[REDACTED]
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