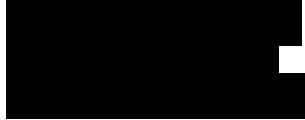




RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 8, 2017
MAHS Docket No.: 17-009982
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 three way telephone hearing was held on September 5, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. Shortly before concluding the hearing it was discovered that on her request for hearing, Petitioner indicated she had an Authorized Hearing Representative (AHR) [REDACTED] who was not present for the hearing. At the commencement of the hearing, Petitioner did not notify the undersigned Administrative Law Judge (ALJ) that she had an AHR who was unable to attend the hearing or that she could not proceed with the hearing without her AHR. There was no request for adjournment made by Petitioner or her AHR prior to the hearing because the AHR was unavailable. Thus, the hearing proceeded and was concluded in the absence of Petitioner's AHR.

The Department of Health and Human Services (Department) was represented by Marvette Hyman, Eligibility Specialist, Lashonda Bradford Case Management Specialist with the Development Center, and Roxanne Best, Case Manager with the Development Center.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to a 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 benefits.
2. As a condition of FIP eligibility, Petitioner was required to participate in the PATH program by doing job search and attending job fairs/interviews.
3. Petitioner was instructed to attend a job fair that was to be held on June 23, 2017 for possible employment with Hertz Rental Car (Hertz). Petitioner was further instructed that she was required to participate in a job interview while at the job fair. (Exhibit B)
4. On June 23, 2017 Petitioner attended the job fair but left prior to her interview. (Exhibit B)
5. Petitioner did not notify the Department or representatives from the PATH program that she was leaving the job fair on June 23, 2017 or why she was leaving and not going to participate in the interview.
6. The Department determined that Petitioner was noncompliant with work related activities.
7. On June 23, 2017 the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on [REDACTED], 2017 to discuss whether she had good cause for her alleged noncompliance. (Exhibit A, pp. 5-6)
8. On June 23, 2017 the Department sent Petitioner a Notice of Case Action advising her that effective August 1, 2017 her FIP case would be closed for at least three months because she failed to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit A, pp. 7-9)
9. A triage was held on [REDACTED], 2017 in Petitioner's absence. The Department determined that Petitioner did not have good cause for missing her job interview on June 23, 2017. (Exhibit B)
10. On July 12, 2017 Petitioner requested a hearing disputing the closure of her FIP case. (Exhibit A, pp. 3-4)

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.

As a condition of FIP eligibility, all Work Eligible Individuals (“WEI”) must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (April 2016), pp. 1-2. The WEI can be considered noncompliant for several reasons including failing or refusing to appear for a job interview. BEM 233A, pp 1-4. 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. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-6.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities or refuses suitable employment, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include: the name of the noncompliant individual; the date(s) of the noncompliance; the reason the client was determined to be noncompliant; the penalty duration; and the scheduled triage appointment. BEM 233A, pp. 10-12. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (July 2017). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 9-12.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 9-12. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, pp. 12-13. Good cause is determined using the best information available during the triage and prior to the negative action date. BEM 233A, p. 10-13. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the Department testified that although Petitioner appeared for the job fair with Hertz on June 23, 2017, because Petitioner left the job fair, did not inform the PATH program or the Department that she was leaving and because she failed to participate in the scheduled job interview with the recruiter who was present, it determined that Petitioner was noncompliant with employment related activities. The Department sent Petitioner a Notice of Noncompliance and held a triage in Petitioner’s

absence on [REDACTED], 2017 to determine if Petitioner had good cause for her noncompliance due to failing to appear for the job interview. At the conclusion of the triage, the Department determined that Petitioner did not have good cause for her failure to stay at the job fair and appear for her interview and initiated the closure of Petitioner's FIP case effective August 1, 2017. The Department imposed a three month sanction for Petitioner's first occurrence of noncompliance without good cause.

At the hearing, Petitioner confirmed that she attended the job fair on June 23, 2017 and that she left prior to being interviewed by the Hertz recruiter. Petitioner testified that she had prior knowledge that employment with Hertz required her to have a current or valid driver license and because she did not have a driver license, she knew she would not qualify for any job with Hertz. Petitioner stated that because Hertz was the only employer at the job fair, she left prior to the interview. Petitioner confirmed that she did not notify the Department or a representative from the PATH program that she was leaving the job fair before her interview. Petitioner further stated that she previously informed a worker with the [REDACTED] ([REDACTED]) that she did not have a driver license and would not qualify for any job with Hertz.

With respect to the triage, Petitioner stated that she did not attend because her daughter was in the hospital with respiratory issues. Petitioner stated that she came to the Department's local office on July 6, 2017, to speak with her case worker. Petitioner testified that she was given an appointment to return on [REDACTED], 2017 to speak with her case worker, at which time she submitted documentation of her daughter's illness the day before and told her case worker she did not stay for the interview because she did not have a driver license and would not qualify for a job with Hertz anyway.

Upon thorough review of the evidence presented and the Department policy, because Petitioner did not establish that prior to the triage and negative action date, she had good cause for her failure to appear for her job interview and because Petitioner did not notify the Department that she was leaving the job fair prior to her scheduled job interview, 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 when it determined that Petitioner was noncompliant with work related activities without good cause, closed Petitioner's FIP case and imposed a three month sanction effective August 1, 2017.

DECISION AND ORDER

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



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-15-Hearings
BSC4 Hearing Decisions
D. Sweeney
G. Vail
MAHS

Petitioner – Via First-Class Mail:

