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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 22, 2017
MAHS Docket No.: 17-010293
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 telephone hearing was held on September 20, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator, Lameda Jackson, Eligibility Specialist/PATH Back Up Coordinator, and Maria Elliott, Case Worker with ACCESS Employment and Training.

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 (20 hours weekly) in the Partnership. Accountability. Training. Hope. (PATH) program through ACCESS by performing job search, going on interviews, applying for jobs and submitting her job search logs at weekly appointments with her PATH worker.

3. In [REDACTED] 2017 Petitioner signed a re-engagement agreement where she agreed to be in compliance with PATH participation requirements. (Exhibit A)
4. Petitioner submitted weekly job search logs and otherwise complied with PATH requirements until May 26, 2017.
5. Petitioner failed to attend her weekly meetings with her PATH worker and failed to submit weekly job search logs for the weeks ending May 26, 2017, June 2, 2017, and June 9, 2017. (Exhibit A)
6. On June 14, 2017 the PATH program sent Petitioner a Triage Meeting Notice informing her that she was considered noncompliant with PATH requirements and a triage meeting will be scheduled because Petitioner missed appointments, violated the re-engagement agreement and did not participate in the program as required. (Exhibit B, p.1)
7. Petitioner asserted that on June 15, 2017 she provided the PATH program with: two weeks of job search logs; documentation that she had participated in four interviews with [REDACTED] (the last of which was on May 25, 2017); documentation that she could not participate in PATH on June 1, 2017 because she was attending a court hearing with her husband; and documentation that on June 8, 2017 she participated in a City of Detroit employment examination.
8. The Department did not have a record of receiving any documents from Petitioner on June 15, 2017.
9. On June 20, 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 B, pp. 2-3)
10. On June 20, 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 six months because for the second time she failed to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit C)
11. In 2014 Petitioner served a three month penalty/sanction for her first occurrence of noncompliance with work related activities without good cause. (Exhibit D)
12. On or around June 26, 2017 Petitioner contacted the Department to advise that she was out of town and would not be able to appear in person for the scheduled triage. Petitioner requested that she participate in the triage via telephone. The Department granted Petitioner's request. (Exhibit A)
13. A triage was held in Petitioner's absence on [REDACTED], 2017. The Department made two attempts to contact Petitioner at the telephone numbers provided and left a voice message instructing Petitioner to return the call in order to participate in the triage. Petitioner failed to make contact with the Department.

14. The Department determined that Petitioner did not have good cause for her missed appointments and failure to return job search logs. (Exhibit A; Exhibit D)
15. On July 28, 2017 Petitioner requested a hearing disputing the Department's actions with respect to the closure of her FIP case.

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 participate in PATH as required; provide legitimate documentation of work participation; appear for a scheduled appointment or meeting related to assigned activities; 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 because Petitioner failed to attend three weekly appointments to submit her job search logs and because she violated the terms of the re-engagement agreement signed in April 2017, it determined that she was noncompliant with work 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 her weekly meetings to submit her job search logs. At the conclusion of the triage, the Department determined that Petitioner did not have good cause for her noncompliance and initiated the closure of her FIP case effective August 1, 2017. The Department imposed a six month sanction for Petitioner's second occurrence of noncompliance without good cause. Petitioner confirmed during the hearing that she was previously sanctioned for a three month period for a first occurrence of noncompliance in 2014.

At the hearing, Petitioner disputed that she was noncompliant with work related activities and asserted that on June 15, 2017 she attended the PATH program but her assigned case worker was not present. As referenced in the above findings of fact, Petitioner testified that on that day, she submitted: two weeks of job search logs; documentation that she had participated in four interviews with [REDACTED] (the last of which was on May 25, 2017); documentation that she could not participate in PATH on June 1, 2017 because she was attending a court hearing with her husband; and documentation that on June 8, 2017 she participated in a City of Detroit employment examination.

The Department denied receiving any documents on June 15, 2017 and upon review of Petitioner's electronic case file during the hearing, stated that the only documents received were submitted on July 28, 2017 with Petitioner's hearing request and which included documentation that Petitioner participated in a City of Detroit employment examination on June 8, 2017, documentation that her husband had a court hearing on June 1, 2017 and documentation confirming her out of state trip to [REDACTED] during the time of the triage. Petitioner was given an opportunity (until the morning following the hearing, September 21, 2017) to fax the undersigned Administrative Law Judge (ALJ) a copy of the documents she indicated she submitted on June 15, 2017; however, as of the afternoon of September 22, 2017 the documents were not received by the undersigned ALJ.

Although Petitioner maintained that she did not receive any phone call from the Department on [REDACTED], 2017 to participate in the phone triage, and notwithstanding Petitioner's assertion that she submitted documents to the Department including two job

search logs, Petitioner did not provide a sufficient basis for her failure to provide the third missing job search log and did not otherwise establish that she had good cause for her failure to attend the scheduled weekly meetings or to fully participate in PATH activities for the required 20 hours weekly.

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 participate in required PATH activities, missing her weekly appointments, and failure to submit all job search logs, 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 six 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-31-Hearings
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Petitioner

