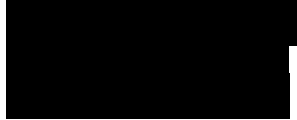




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: October 16, 2017
MAHS Docket No.: 17-012128
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 12, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Pamela Brooks-Brown, Family Independence Specialist, and Lameda Jackson, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

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 FIP recipient.
2. Petitioner was meeting her PATH requirements by engaging in self-sufficiency-related activities.
3. On June 26, 2017, Petitioner submitted a Medical Needs form from her physician indicating she was pregnant but had no working restrictions (Exhibit E).
4. On July 25, 2017, the Department sent Petitioner a second Medical Needs form, as she had informed the Department she had been hospitalized for

pregnancy-related complications. The Medical Needs form was due by August 4, 2017, but was not returned by that date.

5. On [REDACTED], 2017, Petitioner missed a self-sufficiency-related activity appointment.
6. On August 15, 2017, the Department sent Petitioner a Notice of Noncompliance informing her that she was noncompliant due to the missed meeting on [REDACTED], 2017 (Exhibit B).
7. On August 15, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was being closed effective September 1, 2017, ongoing, and that she was subject to a three-month sanction (Exhibit C).
8. On August 23, 2017, Petitioner's physician sent the Department a completed Medical Needs form.
9. On [REDACTED], 2017, Petitioner attended a triage meeting with the Department. The Department found Petitioner did not have good cause for her failure to comply with PATH.
10. Petitioner requested a hearing disputing 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.

In this case, Petitioner requested a hearing to dispute the Department's decision to close her FIP benefit case that was issued on August 15, 2017. Petitioner dated her hearing request on August 30, 2017. However, the Department's stamp indicates it was received on August 12, 2017. Petitioner's request for hearing references the Department's Noncompliance Notice that was issued on August 15, 2017. Petitioner's hearing request also references the triage meeting that took place on [REDACTED], 2017. It is evident the Department did not actually receive the request for hearing on August 12, 2017. As Petitioner's request for hearing references events that took place after the issuance of the Notice of Case Action on August 15, 2017, it is found that the Department's decision to close Petitioner's FIP benefit case can be addressed.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Penalties include 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. BEM 233A, p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

The Department testified that Petitioner's FIP case closed because she had failed to attend self-sufficiency-related activity appointment on [REDACTED], 2017. Petitioner had previously submitted a Medical Needs form on June 26, 2017. Petitioner's physician confirmed she was pregnant and she had no work restrictions. However, Petitioner later indicated she could no longer comply with the PATH requirements, because she had been hospitalized due to complications with her pregnancy. On July 25, 2017, the Department sent Petitioner another Medical Needs form to be completed by her physician and returned by August 4, 2017. As of August 15, 2017, Petitioner had not submitted the Medical Needs form and the Department was unable to authorize a PATH deferral. Because Petitioner did not attend the scheduled [REDACTED], 2017 meeting and the Department had not deferred her from PATH participation, the Department sent Petitioner a Notice of Noncompliance stating she was noncompliant with self-sufficiency-related activities due to her failure to attend the [REDACTED], 2017 meeting. The Department also sent Petitioner a Notice of Case action informing her that her FIP benefit case was going to be closed effective September 1, 2017, ongoing, and that she would be subject to a 3-month sanction.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8.

The Department scheduled a triage meeting on [REDACTED] 2017, at which Petitioner was present. As of [REDACTED], 2017, the Department believed it had not received Petitioner's Medical Needs form. Therefore, the Department determined Petitioner did not have good cause for her failure to attend the [REDACTED], 2017 meeting, as a result of complications/restrictions related to her pregnancy.

Petitioner testified that she presented the Medical Needs form to her physician on August 4, 2017. Petitioner was notified by her doctor that the form would be completed and faxed to the Department on her behalf. However, Petitioner's physician did not have

the necessary fax number and was unable to timely submit the form to the Department (Exhibit F). When Petitioner received the Notice of Noncompliance, she contacted her physician's office and again requested that the form be sent to the Department. Petitioner's doctor faxed the form to the Department on [REDACTED], 2017. The Department confirmed the form had been faxed on [REDACTED], 2017, but had been uploaded to one of Petitioner's other cases. As a result, the Department was not aware of the submitted form on the date of the triage meeting.

The [REDACTED], 2017 Medical Needs form indicates Petitioner has physical limitations and cannot work at any job (Exhibit D). Good cause for noncompliance includes a client being designated as physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. BEM 233A, p. 5. Petitioner's physician indicated they intended to send the Medical Needs form on August 4, 2017, prior to the missed appointment on [REDACTED], 2017. Additionally, the Department had the Medical Needs form indicating Petitioner was physically unfit to work as of the triage appointment on [REDACTED], 2017. Petitioner established that she had good cause for her noncompliance within the negative action period. Therefore, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a 3-month sanction.

DECISION AND ORDER

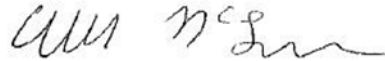
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefit case and subjected her to a 3-month sanction.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FIP eligibility as of September 1, 2017, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from September 1, 2017, ongoing;
3. Remove all self-sufficiency-related noncompliance penalties from Petitioner's FIP benefit case on or about September 1, 2017; and

4. Notify Petitioner of its FIP decision in writing.



EM/jaf

Ellen McLemore
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

MDHHS-Wayne-31-Hearings

Petitioner



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