



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: December 15, 2017  
MAHS Docket No.: 17-014332  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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. After due notice, telephone hearing was held on December 11, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by Kimber Nolan, and Shelli Haines.

**ISSUE**

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Family Independence Program (FIP) benefits due to her noncompliance with the Partnership. Accountability. Training. Hope. (PATH)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2017, the Department received Petitioner's application for Family Independence Program (FIP) benefits in Gladwin County. Exhibit A, pp 8-29.
2. Petitioner was temporarily deferred from participation in the Partnership. Accountability. Training. Hope. (PATH) program.
3. On August 1, 2017, the Department referred Petitioner to the Partnership. Accountability. Training. Hope. (PATH) program and scheduled her for an orientation session on August 8, 2017. Exhibit A, p 32.
4. On August 21, 2017, the Department sent Petitioner a Medical Needs – PATH (DHS-54E) form. Exhibit A, pp 30-31.

5. On September 1, 2017, the Department sent Petitioner a Notice of Noncompliance (DHS-2444) and scheduled a triage meeting for September 13, 2017. Exhibit A, pp 50-51.
6. On September 1, 2017, the Department notified Petitioner that her Family Independence Program (FIP) benefits would be sanctioned effective October 1, 2017, due to her noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit A, pp 41-49.
7. On October 27, 2017, the Department received Petitioner's request for a hearing protesting the sanction on her Family Independence Program (FIP) benefits. Exhibit A, pp 4-6.

### **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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2015), p 1.

The Department will not schedule a triage for instances of noncompliance while the FIP application is pending. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (April 1, 2016), p 9.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed. BEM 233A, p 7.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
  - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.
  - Appear for a scheduled appointment or meeting related to assigned activities.
  - Participate in employment and/or self-sufficiency-related activities.
  - Participate in required activity.

BEM 233A, pp 2-3.

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, p4.

Good cause includes the following:

- Client Unit: The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.
- Illness or Injury: The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.
- Reasonable Accommodation: The DHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.
- No Child Care: The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- Appropriate. The care is appropriate to the child's age, disabilities and other conditions.
- Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.
- Suitable provider. The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
- Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.
- Unplanned Event or Factor: Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:
  - Domestic violence.
  - Health or safety risk.
  - Religion.
  - Homelessness.
  - Jail.
  - Hospitalization.

BEM 233A, pp 4-6.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

The Department will determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp 9-10.

A Work Eligible Individual (WEI) and non-WEIs, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).

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.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 3.

On July 25, 2016, the Department received Petitioner's application for FIP benefits in Gladwin County. Petitioner was approved for cash assistance and temporarily deferred from participation in the PATH program.

On August 1, 2017, Petitioner's temporary deferral from the PATH program had expired and the Department referred her to the PATH program as a condition of continuing cash assistance. Petitioner was scheduled to participate in an orientation session on August 8, 2017. Petitioner did not attend the PATH orientation but reported to the Department that her physical and mental impairments prevented her from participating in the PATH program.

On August 21, 2017, the Department sent Petitioner a Medical Needs – PATH (DHS-54E) for her to document the conditions that prevent her from participating in the PATH program.

Petitioner returned the DHS-54E, but it was not completed or signed by a physician. The Department credibly determined that Petitioner had failed to establish that she is not capable of participating in PATH and that she had had been noncompliant with PATH by failing to attend or reschedule the August 8, 2017, appointment.

A triage meeting was held on September 13, 2017, where Petitioner was given the opportunity to establish good cause for her failure to attend her PATH programing. A claim of good cause must be verified and documented. Petitioner failed to attend the triage meeting and the Department determined whether she had good cause based on the information that was available, which did not include a properly completed DHS-54E with current information. The Department credibly determined that Petitioner did not have good cause for her noncompliance with the PATH program.


On September 1, 2017, the Department notified Petitioner that her FIP benefits would be sanctioned effective October 1, 2017, due to her noncompliance with PATH.

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 sanctioned Petitioner's Family Independence Program (FIP) benefits for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
\_\_\_\_\_  
Kevin Scully  
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**

Kim Lauterwasser  
230 Huron St.  
Grayling, MI  
49738

Crawford County DHHS- via electronic  
mail

BSC1- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

H. Norfleet- via electronic mail

D. Sweeney- via electronic mail

**DHHS**

Stephanie Mietz  
675 E. Cedar Ave Ste. 2  
Gladwin, MI  
48624

**Petitioner**

