



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: January 17, 2018  
MAHS Docket No.: 17-014912  
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 19, 2017, from Lansing, Michigan. The Petitioner was represented by her case manager, [REDACTED] of Segue. Petitioner testified on her own behalf. The Department was represented by Mary Hamilton, Family Independence Specialist, and Melisa Johnstone, Family Independence Manager.

**ISSUE**

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

**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 March 27, 2017, the Department determined that Petitioner is not disabled but is capable of performing work with limitations. Exhibit A.
2. On September 18, 2017, the Department received Petitioner's Redetermination (DHS-1010) form. Exhibit B.
3. On September 25, 2017, the Department notified Petitioner that she was scheduled to appear at an appointment with the Partnership. Accountability. Training. Hope. (PATH) program on October 2, 2017. Exhibit C.
4. On November 1, 2017, Petitioner had not begun participating in the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit C.

5. On November 1, 2017, the Department notified Petitioner that she was found to be noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit D.
6. The Department held a triage meeting on November 7, 2017. Exhibit D.
7. On November 7, 2017, Petitioner participated in the triage meeting by telephone. Exhibit D.
8. On November 1, 2017, the Department notified Petitioner that it would sanction her Family Independence Program (FIP) benefits. Exhibit D.
9. Petitioner has been diagnosed with posttraumatic stress disorder, single episode major depressive disorder, persistent depressive disorder, cannabis use disorder, opioid use disorder, and discord with neighbor, lodger, or landlord. Petitioner's Exhibit 1.
10. Petitioner provided a signed opinion of a medical doctor that Petitioner is unable to work due to medical and psychiatric symptoms. Petitioner's Exhibit 1.
11. On November 13, 2017, the Department received Petitioner's request for a hearing protesting the sanction on her Family Independence Program (FIP) benefits.

### **CONCLUSIONS OF LAW**

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 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.

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.

Petitioner was a FIP recipient and her participation in the PATH program had been temporarily deferred due to her claims of physical and psychiatric impairments. On March 27, 2017, the Department completed its review of the medical documentation supplied by Petitioner and determined that she is capable of performing work with limitations. On September 25, 2017, the Department notified Petitioner that she was scheduled to appear at an appointment with the PATH program on October 2, 2017. On November 1, 2017, Petitioner had failed to participate in the PATH program.

On November 1, 2017, the Department notified Petitioner that she was found to be noncompliant with the requirements of the PATH program. A triage meeting was scheduled for November 7, 2017. Petitioner participated in this meeting by telephone and was given the opportunity to establish good cause for her noncompliance with the PATH program.

Petitioner testified that she attended the PATH program for one hour but was unable to continue due to her physical and psychiatric impairments. Petitioner did not dispute that she failed to participate in the PATH program for more than one hour but testified that her impairments are a barrier to further participation in PATH.

The Department determined that Petitioner failed to establish good cause for her noncompliance with PATH. Petitioner failed to present objective medical evidence showing a new impairment or worsening condition since the Department made its determination on March 27, 2017, that she is capable of participating in the PATH program with limitations. Petitioner failed to identify any reasonable accommodations the Department failed to grant her that would have allowed her to participate in the PATH program despite her limitations.

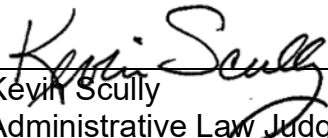
Based on the evidence and testimony available during the hearing, Petitioner has failed to establish that she had good cause for her noncompliance with the PATH program.

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

  
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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**

Denise Croff  
301 E. Louis Glick Hwy.  
Jackson, MI  
49201

Jackson County DHHS- via electronic mail

BSC4- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

H. Norfleet- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

