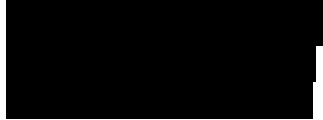




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 8, 2018
MAHS Docket No.: 18-002956
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 May 7, 2018, from Detroit, Michigan. Petitioner was present with his girlfriend, [REDACTED]. The Department of Health and Human Services (Department) was represented by Susan Engel, Hearing Facilitator and Pamela Powell, Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case and subject him to a 3-month sanction?

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 previously deferred from participation from the Partnership. Accountability. Training. Hope. (PATH) program.
3. On February 9, 2018, Disability Determination Services (DDS) determined Petitioner did not have a physical or mental impairment that prevents employment for 90 days (Exhibit H). The decision states that Petitioner could not perform past relevant work but that he could perform other work.

4. On February 13, 2018, the Department sent Petitioner a PATH Appointment Notice (Exhibit G).
5. On March 3, 2018, the Department sent Petitioner a Notice of Noncompliance for her failure to attend PATH orientation (Exhibit B). The notice states a triage was scheduled [REDACTED], 2018.
6. On March 3, 2018, the Department sent Petitioner a Notice of Case Action informing him that his FIP benefit case was closing effective April 1, 2018, ongoing, and that he was subject to a 3-month sanction (Exhibit A).
7. On [REDACTED], 2018, a triage was held, and good cause was not established.
8. On March 19, 2018, Petitioner submitted a request for hearing disputing the Department's actions.

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 was previously deferred from PATH. The Department testified that Petitioner was given presumptive eligibility and a deferral from PATH while DDS was in the process of making a disability determination. On February 8, 2018, DDS issued a decision stating Petitioner was capable of performing other work. As a result, Petitioner was referred to PATH and a PATH Appointment Notice was sent on February 13, 2018.

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. Noncompliance includes failing or refusing to appear and participate in PATH or other employment service provider. BEM 233A, p. 2. 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 Petitioner was determined to be noncompliant because he failed to attend his PATH orientation. Petitioner acknowledged he did not attend his PATH orientation. The Department sent Petitioner a Notice of Noncompliance stating Petitioner was noncompliant due to his failure to attend PATH and that a triage appointment was scheduled on [REDACTED], 2018. The Department also sent Petitioner a Notice of Case action informing him that his FIP benefit case was going to be closed effective April 1, 2017, ongoing, and that he 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 conducted a triage meeting on [REDACTED] 3, 2018, at which Petitioner was present. The Department testified that Petitioner stated he was disabled and could not attend PATH. The Department determined Petitioner did not establish good cause for his failure to attend PATH, as DDS had determined he could perform other work.

At the hearing, Petitioner again alleged that he was disabled and could not attend PATH. At intake, redetermination or anytime during an ongoing benefit period, when an individual claim to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred. BEM 230A (January 2018), p. 11. The client is required to participate in the process of obtaining a decision of disability from DDS. BEM 230A, p. 12. Recipients determined by DDS to be work ready are able to fully engage in PATH without any accommodation. BEM 230A, p. 13. Recipients determined as work ready with limitations are required to participate in PATH as defined by DDS. BEM 230A, p. 13. When a client determined by DDS to be work ready with limitations becomes noncompliant with PATH or his/her FSSP assigned activities, follow instructions outlined in BEM 233A. BEM 230A, p. 15.

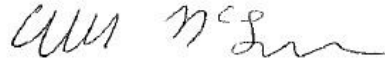
Although Petitioner believes he is disabled to a point where he cannot participate in PATH, DDS determined otherwise. DDS determined Petitioner could not perform past relevant work but could perform other work (Exhibit H). Therefore, Petitioner was work ready with limitations and the Department properly referred him to PATH. Petitioner failed to attend his PATH orientation. The Department properly concluded that Petitioner did not establish good cause for his failure to attend PATH, as he cited his disability as his reason for not attending PATH. Petitioner's disability is not sufficient to excuse him from participation in PATH, as determined by DDS. Thus, the Department acted in

accordance with policy when it closed Petitioner's FIP benefit case and subject him to a 3-month penalty.

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 acted in accordance with Department policy when it closed Petitioner's FIP benefit case and subject him to a 3-month sanction. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



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

Via Email:

MDHHS-Saginaw-Hearings
G. Vail
D. Sweeney
BSC2-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

