



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: June 5, 2018
MAHS Docket No.: 18-003889
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 June 4, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Becky Fraser, Family Independence Manager; Keri Johnson, Case Manager; and Tawana Brown, Service Center Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case and subject her to a six-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 satisfying her 20-hour Partnership. Accountability. Training. Hope. (PATH) requirement by engaging in community service.
3. During the week of March 11, 2018 through March 17, 2018, Petitioner began employment at [REDACTED].
4. On March 19, 2018, the Department received notification that Petitioner quit her job at [REDACTED].

5. On March 19, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective April 1, 2018, ongoing, and that she was subject to a six-month sanction (Exhibit C).
6. On March 19, 2018, the Department sent Petitioner a Notice of Noncompliance informing Petitioner she was noncompliant due to her resignation from employment and that a triage was scheduled on [REDACTED], 2018 (Exhibit A).
7. On [REDACTED], 2018, the Department held a triage, at which Petitioner was present. The Department did not find good cause for Petitioner's noncompliance.
8. On April 9, 2018, Petitioner submitted a request for hearing.

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 satisfying her 20-hour per week PATH requirement by engaging in community service. However, on March 15, 2018, Petitioner began employment at [REDACTED].

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 refusing to participate in employment and/or self-sufficiency-related activities. BEM 233A, p. 2. Refusing suitable employment includes quitting a job. BEM 233A, p. 3.

On March 19, 2018, the Department received notification that Petitioner had resigned her position at [REDACTED]. As a result, the Department sent Petitioner a Notice of Case Action on March 19, 2018, informing Petitioner that her FIP benefit case was closing

effective April 1, 2018, ongoing, and that she was subject to a six-month sanction, as she had been previously subject to a 3-month sanction (Exhibit D). The Department also sent Petitioner a Notice of Noncompliance on March 19, 2018, informing Petitioner that she was noncompliant because she resigned her employment and that a triage was scheduled on [REDACTED], 2018.

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. Good cause includes the client experiences discrimination on the basis of age, race, dis-ability, gender, color, national origin or religious beliefs. BEM 233A, p. 6.

A triage was held on [REDACTED], 2018, at which Petitioner was present. The Department testified that Petitioner stated that she resigned her position because she experienced discrimination during her employment. The Department stated that Petitioner's explanation for why she resigned was not assessed for credibility, as the Department did not even address the issue. The Department testified that although the resignation was the primary issue that led to Petitioner's noncompliance, it was deemed a nonissue at the triage. Instead, the Department focused on whether Petitioner had satisfied the requisite 20 hours per week during the period of March 12, 2018 through March 25, 2018. Petitioner stated at the triage that her combined work and community service hours would satisfy the 20-hour per week requirement during that period. Petitioner was given until March 29, 2018 to verify her hours between employment and community service.

The Department testified that on March 29, 2018, Petitioner submitted her pay stub from [REDACTED] showing that during the period of March 12, 2018 through March 25, 2018 she only worked 13 hours. The Department also presented Petitioner's case notes from Michigan Works!. The Department testified that on March 29, 2018, Petitioner's PATH worker, who was not present at the hearing, entered a note which stated, "[REDACTED] was unable to confirm jobseeker's community service attendance" (Exhibit B). The Department stated that Petitioner was engaging in community service at [REDACTED]. The Department testified that this established Petitioner did not satisfy the 20-hour per week requirement between her employment hours and community service. As such, the Department determined Petitioner did not establish good cause for her failure to participate in employment/self-sufficiency-related activities.

The Department failed to establish that it properly followed policy when determining whether Petitioner had good cause for her noncompliance. First, the Department did not even assess whether Petitioner had good cause for her resignation, which is what led to her case closure and sanction. Second, the Department testified that it generally verifies participation in community service by contacting [REDACTED] directly. The March 29,

2018 comment in the case notes is insufficient to establish Petitioner failed to meet the 20-hour requirement. The individual who made that comment was not present to testify at the hearing to explain whether the comment meant she was truly unable to verify the information or that the statement meant that Petitioner did not participate in community service during the time period in question. The Department's failure to address the primary issue that led to Petitioner's case closure and sanction, as well as the lack of evidence showing she was noncompliant due to her failure to meet the minimum hourly requirement, establishes that the Department did not follow policy when determining good cause for Petitioner's noncompliance. Therefore, the Department did not act in accordance with policy when it closed Petitioner's FIP benefit case and subject her to a six-month sanction.

DECISION AND ORDER

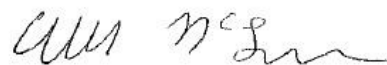
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a six-month sanction.

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 April 1, 2018, 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 April 1, 2018, ongoing;
3. Remove all employment/self-sufficiency related noncompliance penalties from Petitioner's FIP benefit case on or about April 1, 2018; and
4. Notify Petitioner of its FIP decision in writing.

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) 763-0155; 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-Kent-1-Hearings
G. Vail
D. Sweeney
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

