



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: March 12, 2019
MAHS Docket No.: 19-000434
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 March 6, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Steven Reimer, Family Independence Specialist, as well as Partnership. Accountability. Training. Hope (PATH) Case Manager Amber Branch and Senior Case Manager Celeste Spight.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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. On September 25, 2018, Petitioner entered into a reengagement agreement with the PATH office requiring her to work at least 20 hours per week, search for work for at least 20 hours per week, or a combination of the two for a total of 20 hours per week with proof provided to the PATH office on a weekly basis.
2. On November 15, 2018, Petitioner began working for [REDACTED] [REDACTED] (Employer) and provided verification of the start of employment to the PATH office.

3. By November 29, 2018, Petitioner had not submitted any other proofs of her employment to the PATH office; and a request was mailed to her for a copy of her paystubs.
4. Petitioner was evicted from her home on [REDACTED] in November 2018.
5. On December 3, 2018, the PATH office received a copy of the Work Number Report showing that Petitioner was working for Employer, but according to the PATH office was not meeting her work requirement; and she was placed in noncompliance.
6. On the same day, a Notice of Noncompliance was mailed to Petitioner's address of record on [REDACTED] informing her that had failed to participate in a required employment activity, had been scheduled for a triage appointment on December 11, 2018, at 9:00 AM at the Gratiot and Seven Mile Office of the Department, and that her FIP case would close for a minimum of three months based upon a first instance of noncompliance.
7. No Notice of Case Action was issued to Petitioner informing her of the effectiveness date of the closure of her FIP case.
8. On December 11, 2018, Petitioner failed to appear for the triage appointment.
9. On January 17, 2019, the Department received Petitioner's request for hearing disputing the closure of her FIP case.
10. On the same day, Petitioner updated her address with the Department.

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 disputes the Department's closure of her FIP case based upon noncompliance with the PATH.

First, it should be noted that the Department failed to issue a Notice of Case Action in this case. A Notice of Case Action is used by the Department to inform clients about the closure of a case or other actions taken by the Department. Petitioner's request for hearing demonstrates that she was aware of the closure of her FIP benefits without notice being issued. Therefore, the primary issue in this case is whether the Department's decision to close Petitioner's FIP case was in accordance with Department policy.

The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (July 2018), p. 1. Federal and state laws require each work-eligible individual in the FIP group to participate in PATH or engage in activities that meet participation requirements. *Id.* A work-eligible individual who refuses, without good cause, to participate in an assigned employment and/or other self-sufficiency-related activities is subject to penalties. *Id.*

Good cause for noncompliance may be established when a client has a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors beyond the control of the noncompliant person. BEM 233A (July 2018), p. 4. If a work-eligible individual is in noncompliance while the application is pending, the group is ineligible for benefits. BEM 233A, p. 7. Good cause for noncompliance is a valid reason based upon factors beyond the control of the noncompliant person. BEM 233A, p. 4. It includes employment greater than 40 hours, the client being physically or mentally unfit, illness or injury, failure to provide reasonable accommodation, no child care, no transportation, discrimination, employment involving illegal activities, an unplanned event or factor such as a hospitalization, comparable work, or finally, a long commute. BEM 233A, pp. 4-7.

If a client is required to participate in PATH, the Department workers designate the minimum number of hours a client must participate in employment and/or self-sufficiency-related activities on the Employment Services-Details screen of Bridges; the PATH office uses the minimum required hours indicated on the Family Self-Sufficiency Plan (FSSP) to assign clients to activities that meet federal minimum participation requirements, up to 40 hours per week. BEM 230A, p. 5. A client's actual hours of participation in paid work activities must be verified. BEM 230A, p. 21. Activities assigned to a client on the FSSP must be verified using a DHS-630, Weekly Activity Log, when monitoring is required. BEM 230A, p. 22. Clients are advised of the verification requirements on the DHS-1538, Work and Self-Sufficiency Rules, at application. *Id.* When a client fails to return an activity log by the due date, it is considered to be noncompliance with PATH requirements. *Id.*

When a work eligible individual fails without good cause to participate in employment or self-sufficiency-related activities as active FIP clients, they are penalized by case closure for three months for the first episode of noncompliance, six months for the second episode, and for life for the third episode. BEM 233A (April 2016), pp. 1, 8. Noncompliance includes failure or refusal to:

- Appear and participate with PATH.
- Complete a Family Automated Screening Tool.
- Develop a FSSP.
- Comply with assigned activities on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in a required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview.

BEM 233A, pp. 2-3. Refusal of suitable employment means voluntarily reducing hours or earnings, quitting a job, or being fired for misconduct or absenteeism. BEM 233A, p. 3.

The Department and PATH office assert that Petitioner did not submit proof of her hours worked or her work search after November 16, 2018. Petitioner indicated that she submitted proof of her work search before and after starting employment with Employer. The Department does not dispute that Petitioner provided proof of her employment after starting the employment, but instead disputes that she failed to provide a weekly update regarding her employment hours or work search. Petitioner did not provide any evidence that she submitted proof of her work search beyond the initial proof of employment submitted on November 16, 2018. Her only explanation was that she was going through an eviction. However, given Petitioner's initial reengagement agreement from September 2018, petitioner was well aware of the requirements for participation in the program. While evictions cause complications, the eviction did not prevent Petitioner from submitting proof of a work search at the PATH office nor did it prevent submission of her paystubs from Employer. Therefore, Petitioner was properly placed in noncompliance and the Department's decision to close her case was in accordance with Department policy.

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 case for failure to comply with PATH requirements.

DECISION AND ORDER

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



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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

DHHS

Dora Allen
MDHHS-Wayne-76-Hearings

Petitioner

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BSC4
B Sanborn
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G Vail
D Sweeney