



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: December 11, 2019  
MOAHR Docket No.: 19-011326  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 December 5, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Stephanie Lassiter-Williams PATH Coordinator. Department Exhibits 1-11 were received and admitted.

### **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. Petitioner was a recipient of FIP benefits.
2. On September 13, 2019, a PATH Appointment Notice was sent to Petitioner instructing her to appear on September 23, 2019 at 8:30 am. (Ex. 2)
3. On September 23, 2019, Petitioner failed to appear for her PATH appointment.
4. On October 2, 2019, Notice of Noncompliance was sent to Petitioner informing her that she failed to appear for her PATH appointment and scheduling a triage meeting for October 8, 2019.
5. On October 8, 2019, Petitioner failed to appear for the triage meeting.

6. On October 11, 2019, Petitioner submitted records in an attempt to verify her physical disabilities.
7. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the closure of FIP benefits.

### **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.

#### **Client Unfit**

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. BEM 233A

#### **When to Request a New DDS Decision**

After a DDS decision and/or SSA medical determination has been denied and the client states their existing condition has worsened or states they have a new condition resulting in disability greater than 90 days, verify the new information using a DHS-54-A or a DHS-54E. When an individual presents a doctor's note after the DDS decision but does not have new medical evidence or a new condition, send the DHS-518, Assessment for FIP Participation, to the doctor and request supporting medical evidence.

If the returned verification confirms the above, follow policy in BAM 815 to make a new referral to DDS.

The specialist must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency.

If new medical evidence is not provided, do not send the case back to the DDS. The previous DDS decision stands. BEM 230A

In this case, Petitioner testified at hearing that she did not receive the PATH appointment notice until the day of the appointment. Petitioner testified that she did not receive the triage meeting notice until the day of the appointment. Petitioner testified that her disabilities prevent her for participating with PATH and submitted medical records in support of that testimony.

The Department representative testified that the notices for the PATH appointment and the triage meeting were sent to Petitioner by Central Print and should have been delivered to Petitioner with enough time to give her a reasonable opportunity to appear. The Department representative asserted that Petitioner's claims of disability were already considered in October 2018 and Petitioner was found to have a non-severe impairment. (Ex. 8) The Department representative asserted that Petitioner did not allege any new impairments so another review by the Disability Determination Service was not warranted. BEM 230A

Petitioner submitted Disability Certificates dated July 29, 2019 and October 9, 2019 from Petitioner's doctor stating that Petitioner is disabled due to lumbar radiculopathy, left shoulder sprain and traumatic brain injury. (Ex. 6) These are essentially the same impairments stated on a Medical Needs form dated October 4, 2018 and are the same impairments considered by the Disability Determination Service in May 2019. Petitioner did not allege new or worsening conditions. Petitioner also did not submit any medical records just a form completed by her doctor. Therefore, the Department was correct to not initiate another review by DDS.

Petitioner failed to appear for her PATH appointment notice without good cause after having been given proper notice to appear. Therefore, it was proper and correct for the Department to close her FIP case. BEM 233A

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 failing to participate with PATH.

### **DECISION AND ORDER**

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

AM/nr



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Aaron McClintic  
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Susan Noel  
26355 Michigan Ave  
Inkster, MI  
48141

Wayne 19 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**

 via first class mail  
, MI