



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 27, 2019
MOAHR Docket No.: 19-012467
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 19, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kelly Teed, Hearings Facilitator. During the hearing, a 16-page packet of documents was offered and admitted as Exhibit A, pp. 1-16.

ISSUE

Did the Department properly sanction Petitioner's Family Independence Program (FIP) cash assistance case due to the Department's finding that Petitioner failed to attend her PATH appointment at Michigan Works! without good cause?

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 recipient of FIP cash assistance benefits from the Department.
2. At all times relevant to the instant matter, Petitioner was enrolled as a student at [REDACTED], where she took four classes, including one that started at 10:00 am on Mondays.

3. On October 9, 2019, the Department issued to Petitioner a PATH Appointment Notice informing Petitioner that she was required to attend a Monday, October 21, 2019 appointment at 9:00 am. Petitioner was instructed to contact the Department prior to the appointment if she had a scheduling conflict. Exhibit A, p. 5.
4. Prior to the appointment, Petitioner rescheduled the appointment and informed the agent that she was unable to attend on Mondays due to the conflict with her class schedule. The meeting was rescheduled for Tuesday, October 22, 2019.
5. Petitioner did not show up to the October 22, 2019 meeting due to an emergency child-care issue.
6. On October 24, 2019, the Department issued to Petitioner a PATH Appointment Notice informing Petitioner that she was required to attend a Monday, October 28, 2019 appointment at 9:00 am, despite all parties involved being on notice that Petitioner had class every Monday morning. Petitioner was instructed to contact the Department prior to the appointment if she had a scheduling conflict. Exhibit A, p. 6.
7. Once again, Petitioner did not appear for the meeting on Monday because of the scheduling conflict. Petitioner did, however, show up the following day. She was turned away because she did not have an appointment.
8. On October 29, 2019, the Department issued to Petitioner a PATH Appointment Notice informing Petitioner that she was required to attend a Monday, November 4, 2019 appointment at 9:00 am, despite all parties involved being on notice that Petitioner had class every Monday morning. Petitioner was instructed to contact the Department prior to the appointment if she had a scheduling conflict. Exhibit A, p. 7.
9. Once again, Petitioner did not appear for the meeting because of the scheduling conflict.
10. On November 11, 2019, the Department issued to Petitioner a Notice of Noncompliance informing Petitioner of a triage meeting that would take place on Thursday, November 21, 2019. The purpose of the hearing was to determine whether Petitioner had good cause for noncompliance after Petitioner missed the appointments with PATH. It was explained in the document that if Petitioner did not have good cause for noncompliance, her FIP cash assistance case would be sanctioned for the second time, resulting in a six-month disqualification from receiving FIP cash assistance. Exhibit A, pp. 9-11.
11. Petitioner appeared for the November 21, 2019 triage meeting. Petitioner explained that she missed the Monday appointments because she had class every Monday morning. She further explained that she missed the October 22, 2019

appointment because of an emergency child-care issue related to a brief separation from the father of the child.

12. The Department found that Petitioner did not have good cause for missing the PATH appointments.
13. On November 11, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP cash assistance case would be closing, effective December 1, 2019 as a result of Petitioner's failure to attend the PATH appointments without good cause. Petitioner was further informed that her case would remain closed for six months as Petitioner had a previous noncompliance sanction. Exhibit A, pp. 12-16.
14. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's November 11, 2019 Notice of Case Action.

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 objects to the closure and sanction of her FIP cash assistance case due to her alleged failure to attend her PATH appointment without good cause. As Petitioner had one previous sanction, the Department's action resulted in the Department sanctioning her case for six months. On November 21, 2019, a meeting was held where Petitioner was given the opportunity to explain why she missed the appointments. The Department did not consider her explanations to constitute good cause for noncompliance, so it did not remove the sanction. Petitioner submitted a timely hearing request objecting to the Department's action.

The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (October 2019), p. 1. 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, p. 1; BEM 233A (July 2018), 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 with self-sufficiency-related activities includes failing to appear and participate with PATH or other employment or other 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.

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.

At the hearing, the parties agreed that Petitioner failed to attend the PATH appointments. They also agreed that Petitioner attended the November 21, 2019 triage meeting. Petitioner explained that she missed each of the Monday meetings because, as the Department and Michigan Works! were aware, Petitioner had class every Monday morning. The one meeting that was not on Monday was missed because of an emergency child-care issue.

Good cause for noncompliance is a valid reason based on factors outside the client's control and includes unplanned events. BEM 233A, pp. 4-6.

The noncompliance sanction must be removed. Petitioner presented sufficient credible evidence to establish that she had good cause for missing the PATH appointments. The Monday appointments were scheduled despite the Department and Michigan Works! being on notice that Petitioner had class each and every Monday. It is a mystery why the meetings kept being scheduled for Monday mornings despite that knowledge. The one that was not on a Monday was missed because of an unplanned emergency child-care issue that prevented Petitioner from being able to attend. Once, again, that amounts to good cause.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed and sanctioned Petitioner's FIP cash assistance case for noncompliance based on Petitioner's failure to attend the PATH appointments.

DECISION AND ORDER

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. Reinstate Petitioner's FIP cash assistance case back to the date of closure;
2. Remove the noncompliance sanction from Petitioner's FIP cash assistance case;
3. If Petitioner is eligible for additional FIP cash assistance benefits that were not provided, promptly issue to Petitioner a supplement;
4. Refer Petitioner to PATH in accordance with Department policy; and
5. Notify Petitioner in writing of its decisions.

JM/tm



John Markey
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

Vivian Worden
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Clinton Twp., MI
48036

Petitioner

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[REDACTED]

cc: FIP (PATH) – G. Vail; D. Sweeney
AP Specialist Macomb County (4)