



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: January 9, 2020
MOAHR Docket No.: 19-012556
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 19, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Brian Magda, Jerica Hall, Jennifer Sleeper, and Dawn Awrey.

ISSUE

Did the Department of Health and Human Services (Department) properly sanctioned Petitioner's Family Independence Program (FIP) benefits?

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 and her husband were ongoing Family Independence Program (FIP) recipients and Petitioner's husband was assigned to the Partnership. Accountability. Training. Hope. (PATH) program as a Work Eligible Individual (WEI).
2. Petitioner's husband was assigned to the Career Success Workshop scheduled for October 15, 2019. Exhibit A, p 19.
3. Petitioner's husband was noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program when he failed to attend the October 15, 2019, workshop.

4. On November 1, 2019, the Department notified Petitioner that she had been found noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit A, pp 8-10.
5. On November 1, 2019, the Department notified Petitioner that a triage meeting would be held on November 13, 2019, where she would have the opportunity to establish good cause for her alleged noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit A, p 8.
6. On November 1, 2019, the Department notified Petitioner that her Family Independence Program (FIP) benefits would be sanctioned for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program effective December 1, 2019. Exhibit A, p 7.
7. On November 21, 2019, the Department received Petitioner's request for a hearing protesting the sanction on her Family Independence Program (FIP) benefits. Exhibit A, pp 4-5.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (October 1, 2019), p 1.

The Department will not schedule a triage for instances of noncompliance while the FIP application is pending. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (May 1, 2015), p 9.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to: Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.

BEM 233A, pp 2-3.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. BEM 233A, p4.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

The Department will determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp 9-10.

A Work Eligible Individual (WEI) and non-WEIs, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).

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.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (January 1, 2019), p 3.

Petitioner and her husband were ongoing FIP recipients and Petitioner's husband was assigned to the Partnership. Accountability. Training. Hope. (PATH) as a Work Eligible Individual (WEI). As part of his ongoing programming and a condition of ongoing FIP eligibility, Petitioner's husband was assigned to attend the Career Success Workshop on October 15, 2019. Petitioner failed to attend this workshop and the Department considers this to be noncompliance with PATH requirements.

On November 1, 2019, the Department notified Petitioner that her FIP benefits would be sanctioned for noncompliance with the PATH program. Petitioner's FIP benefits were not continued pending an administrative hearing when she failed to file her hearing request within 10 days of being sent notice that her benefits would be sanctioned.

A triage meeting was scheduled for November 13, 2019, where Petitioner had the opportunity to establish good cause for her husband's failure to attend the October 15, 2019, workshop. Petitioner did not present sufficient evidence at the triage meeting to support a finding of good cause for her husband's failure to attend the October 15, 2019, workshop.

The Department's representative testified that Petitioner was given the opportunity to offer evidence of good cause for her husband's noncompliance after the triage meeting, but it is not clear how much of an extension she was given. No evidence was presented that Petitioner provided the Department with evidence supporting good cause after the triage meeting, and no additional information was provided during the administrative hearing that would support a finding of good cause.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the factfinder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447,

452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the factfinder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

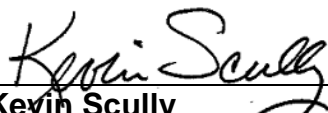
Based on the evidence and testimony available during the hearing, the Department presented substantial and credible evidence that Petitioner's husband was expected to attend a workshop on October 15, 2019, and that he failed to attend that workshop. Petitioner and her husband either knew what was expected of them in order to remain eligible for FIP benefits, or they should have. No evidence was presented on the record that Petitioner's husband had good cause for his failure to attend the October 15, 2019, workshop.

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 sanctioned Petitioner's Family Independence Program (FIP) benefits effective December 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Kelly Sutherland
2300 E Grand River Ste. 1
Howell, MI 48843

Livingston County, DHHS

BSC4 via electronic mail

H. Norfleet via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]