



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 25, 2020
MOAHR Docket No.: 20-000445
Agency No.: ██████████
Petitioner: ██████████

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 February 19, 2020 from ██████████ Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Stephanie Laster-Williams, PATH Coordinator, and Patricia Taylor, PATH Coordinator Assistant.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to noncompliance with work or Partnership. Accountability. Training. Hope (PATH) requirements?

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 ██████████, 2019, the Department received Petitioner's Application for FIP benefits.
2. As a result of the Application, Petitioner's attendance at PATH, and work at Beaumont, Petitioner was granted FIP benefits.
3. By October 2019, Petitioner had been placed in noncompliance with PATH requirements.

4. On October 17, 2019, Petitioner signed a PATH Reengagement Agreement agreeing to complete her assigned activities, turn in any required documentation, contact Michigan Works! Agency (MWA) if she needed supportive services, and comply with program requirements.
5. Toward the end of October 2019, Petitioner began employment with [REDACTED] (Employer).
6. Pursuant to a request for assistance, the Department scheduled Lyft rides to and from Employer for Petitioner on November 1st, November 2nd, and November 4th in accordance with the schedule provided by Petitioner.
7. Petitioner utilized at least one ride on November 1st.
8. On November 2, 2019, Petitioner did not utilize either of her scheduled rides.
9. On November 4, 2019, Petitioner did not utilize either of her scheduled rides.
10. On November 5, 2019, the Department did not schedule any rides for Petitioner because she had been a no show for rides on November 2nd and 4th.
11. On or about December 3, 2019, the PATH office received confirmation from Employer that Petitioner had been terminated from her employment effective November 5, 2019 due to absences.
12. On December 20, 2019, the Department issued a Notice of Noncompliance to Petitioner informing her that she was scheduled for a triage appointment on Christmas Day, December 25, 2019 (it was later rescheduled to January 2, 2020) and that this was her first instance of noncompliance; therefore, her benefits would close for three calendar months.
13. On January 2, 2020, the triage appointment was held, but no good cause was found because Petitioner did not provide sufficient documentation of her alleged disability or illness which prevented her from working.
14. On the same day, the Department realized that a Notice of Case Action had not been issued to Petitioner regarding the closure of her benefits.
15. On the same day, a Notice of Case Action and second Notice of Noncompliance were issued to Petitioner informing her that her FIP benefits were closing for failure to attend PATH effective February 1, 2020 and that this was her first instance of noncompliance which resulted in a closure for three months.
16. On the same day, the Department received Petitioner's request for hearing disputing the closure of her 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.

In this case, Petitioner disputes the Department's closure of her FIP benefits due to noncompliance with work requirements. The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (October 2019), 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 activity is subject to penalties. *Id.*

Noncompliance with employment and/or self-sufficiency related activities includes failing or refusing to:

- Provide legitimate documentation of work participation
- Appear for scheduled appointments or meetings related to assigned activities
- Participate in employment and/or self-sufficiency-related activities
- Participate in a required activity
- Accept a job referral

BEM 233A (July 2018), pp. 2-3.

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 that are beyond the control of the noncompliant person. BEM 233A, p. 4. Examples include employment of 40 hours per week, illness or injury, no childcare when requested, no transportation where the client requested transportation services from the Department, and other items where the factors are beyond the client's control. If good cause is found, the client is sent back to PATH. BEM 233A, p. 4.

In this case, Petitioner was initially noncompliant with work requirements, but then signed a Reengagement Agreement and started working for Employer; however, by

November 5, 2019, Petitioner was terminated from her employment due to absenteeism. At the hearing, Petitioner provided several explanations for why her employment ended. First and foremost, Petitioner did not have adequate transportation to get to work which was why the PATH office had been scheduling Lyft rides. Petitioner agrees that she did not go to work on November 2, 2019, and did not utilize the Lyft rides because she was sick and in the hospital. Petitioner did not contact the PATH office to cancel the rides because it was a weekend and the office was closed. However, Petitioner never provided any documentation to the PATH office or her Department caseworker showing that she was at the hospital or otherwise ill on November 2, 2019. Next, Petitioner testified initially that she was not scheduled to work on Monday, November 4, 2019; however, the schedule she provided to the Department and the Department's Lyft ride schedule show that she was supposed to work, but she did not utilize the rides. On November 4, 2019, Petitioner's PATH worker reviewed the ride schedule and determined that because Petitioner had not utilized the rides on the 2nd and 4th, no additional rides would be scheduled. Therefore, on November 5, 2019, Petitioner did not go to work because no Lyft ride had been scheduled and she had no transportation. Finally, Petitioner testified that she should not have been working anyway because her doctor had determined she was disabled after a car accident. At the hearing, Petitioner provided documentation from her doctor at [REDACTED] in [REDACTED] showing that from August 20, 2019 through December 21, 2019, Petitioner's doctor had determined that she was disabled, not able to return to work, not able to do housework, not able to care for her children, and not able to drive. Although Petitioner testified that she provided this information to her caseworker, her statements are not credible because if she had provided it at the time of her reengagement in October 2019, she would have been deferred from PATH, but she was not. Despite Petitioner's failure to provide the documentation to her caseworker when she was experiencing these circumstances or at her triage appointment on January 2, 2020, Petitioner has established a valid reason for noncompliance with employment requirements due to illness or injury. Therefore, closure of her FIP benefits was not in accordance with 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 Petitioner has established good cause for her failure to comply with work requirements and the closure of her FIP benefits was not in accordance with policy.

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 and redetermine Petitioner's FIP benefits as of February 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.



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 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

LaClair Winbush
MDHHS-[REDACTED]-Hearings
BSC4
B Sanborn
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