



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: August 6, 2020  
MOAHR Docket No.: 20-003704  
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 July 7, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Susie Perez. Kimberly Sheppard and Beverly McCall also appeared and testified for the Department. Department Exhibit 1, pp. 1-245 was received and admitted.

### **ISSUE**

Did the Department properly deny Petitioner's Family Independence Program (FIP) application for failing to comply with 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. Petitioner applied for FIP cash assistance and was approved.
2. On April 21, 2020, a FAST (Family Automated Screening Tool) Mandatory Notice was sent to Petitioner instructing her husband to complete FAST within 30 days.
3. On May 21, 2020, Notice of Noncompliance was sent to Petitioner alleging that her husband failed to complete FAST.
4. On May 21, 2020, Notice of Case Action was sent to Petitioner informing her that FIP benefits would close effective July 1, 2020. (Ex. 1, pp. 248-253)

5. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the alleged noncompliance and denial of FIP benefits.
6. Petitioner alleged that her husband has a disability that precludes him from participating with PATH and completing the FAST.

### **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.

#### **GOOD CAUSE FOR NONCOMPLIANCE**

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. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period.

Good cause includes the following:

##### **Employed 40 Hours**

The person is working at least 40 hours per week on average and earning at least state minimum wage.

##### **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.

##### **Illness or Injury**

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

##### **Reasonable Accommodation**

The MDHHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

### **No Child Care**

The client requested child care services from MDHHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- Suitable provider.** The provider meets applicable state and local standards. Also, license exempt providers who are not licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA) Bureau of Community and Health Systems (BCHS) must meet Child Development and Care (CDC) enrollment requirements; see BEM 704.
- Affordable.** The child care is provided at the rate of payment or reimbursement offered by CDC.

### **No Transportation**

The client requested transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

### **Illegal Activities**

The employment involves illegal activities.

### **Discrimination**

The client experiences discrimination on the basis of age, race, dis-ability, gender, color, national origin or religious beliefs.

### **Unplanned Event or Factor**

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities.

Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

### **Comparable Work**

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

### **Long Commute**

Total commuting time exceeds:

- Two hours per day, not including time to and from child care facilities or
- Three hours per day, including time to and from child care facilities. BEM 233A

In this case, Petitioner alleged that her husband has a physical disability that precludes him from participating with PATH and completing the FAST. Petitioner's husband has the following medical conditions: back injury, arthritis, degenerative disc disease,

osteoporosis, osteoarthritis, bulging discs, and herniated disc. Petitioner was found to be capable of light work by the Medical Review Team. (Ex. 1, pp.14-24) Specifically, the Medical Review Team opined "Your conditions results in some limitations in your ability to perform work related activities. We have determined that your condition is not severe enough to keep you from working. We consider the medical and other information and work experience in determining how your condition effects your ability to work. We do not have sufficient vocational information to determine whether you can perform any of your past relevant work. However, based on the evidence in the file, we have determined that you can adjust to other work." (Ex. 1, p.24)

Petitioner's husband's most recent MRI from June 2019 showed Diffuse congenital lumbar spinal canal stenosis. Superimposed multilevel degenerative disc changes further narrow the spinal canal with resultant moderate spinal canal stenosis at L2-L3 and L3-L4. Severe narrowing of the right and moderate narrowing of the left lateral recess and L3-L4 which contains descending L4 nerve roots. Moderate narrowing of the left lateral recess at L4-L5 which contains descending L5 nerve roots. Findings are similar to prior MRI of lumbar spine from 2018. (Ex. 1, p.221)


The Medical Review Team properly determined that Petitioner's husband was capable of both light and sedentary work and therefore is not disabled and does not have good cause. BEM 233A The medical records do not support a finding of disability or an inability to participate with PATH. Petitioner's husband should be referred back to PATH and should be given instruction to complete the FAST. If he fails to meet those requirements, then the case should be processed for closure.

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 complete FAST.

### **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**

Abigail Norton  
692 E. Main  
Centreville, MI  
49032

St. Joseph County DHHS- via electronic mail

BSC3- 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