



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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██████████, MI ██████████

Date Mailed: November 10, 2020
MOAHR Docket No.: 20-006097
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 October 28, 2020, from Lansing, Michigan. The Petitioner was represented by himself. Petitioner's mother ██████████ ██████████ also appeared and testified. The Department of Health and Human Services (Department) was represented by Irma Aranda-Cruz FIM and Domini Melson. Department Exhibit 1, pp. 1-92 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits case for failing to participate with PATH?

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 and was deferred from participating with PATH.
2. In August 2019, redetermination paperwork was sent to Petitioner. Petitioner submitted redetermination paperwork.
3. On April 30, 2020, the Disability Determination Service determined that Petitioner was not disabled and work ready.
4. On August 1, 2020, a PATH appointment notice was sent to Petitioner with an August 10, 2020 appointment.

5. On August 20, 2020, Notice of Case Action was sent to Petitioner informing him that his FIP case would close effective September 1, 2020, for failing to participate with PATH.
6. On September 16, 2020, Petitioner requested hearing disputing the closure of FIP benefits.
7. Petitioner has medical diagnoses of knee injury, back pain, and hernia. Petitioner is also illiterate.
8. At Petitioner's review interview the worker made the following note under worker observations: "Client appears very tired. He cannot read and has a very hard time understanding directions and concentrating. He was hurt in a work-related incident originally and workers comp settled with him and he has an RSDI claim that is awaiting hearing. He walks with a limp and appears to be in a good deal of pain. He has one daughter and is currently living in a camper on relative's property. He has very poor memory." (Ex. 1, p.22)

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. BEM 233A

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

In this case, the Disability Determination Service determined that Petitioner was not disabled and work ready. (Ex.1, p. 42) Petitioner was previously found to be deferred from participating with PATH.

Petitioner testified that he has difficulty reading and comprehending. Petitioner's mother testified that Petitioner has an IQ of 67. Petitioner testified that his physical health problems related to his knee and back pain would make it difficult for him to work full time or participate with PATH.

Petitioner was previously found to be deferred from participating with PATH due to his medical issues. The Department could not explain in what way Petitioner's health had improved to allow him to now participate with PATH. Petitioner's health problems render him physically and mentally unfit for employment related activity. Therefore, Petitioner has good cause for failing to participate with PATH. 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP case for failing to participate with PATH.

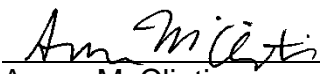
DECISION AND ORDER

Accordingly, the Department's decision is **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 case going back to the date of closure.
2. Issue a supplement for any missed FIP benefits.

AM/nr



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

Jeannene Gatties
57150 Cty. Rd. 681
Hartford, MI
49051

Van Buren 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
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██████████, MI
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