



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], MI [REDACTED]

Date Mailed: November 6, 2020
MOAHR Docket No.: 20-006277
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 October 29, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Irma Aranda-Cruz and Domini Melson. Department Exhibit 1, pp. 1-1214 was received and admitted. Petitioner's Exhibit A, was received and admitted.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits 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. On March 23, 2020, Petitioner reported ongoing disability pursuant to a redetermination of her FIP benefits.
2. On August 14, 2020, the disability determination services determined that Petitioner was not disabled.
3. On August 18, 2020, Petitioner was sent a PATH appointment notice for August 31, 2020.
4. On September 8, 2020, Notice of Case Action was sent to Petitioner informing her that her FIP case was closing for failing to participate with PATH.

5. On October 1, 2020, Petitioner requested hearing disputing the closure of FIP benefits.
6. Petitioner's treating physician Dr. [REDACTED] submitted a letter on Petitioner's behalf that reads as follows: "[REDACTED] has been under my care since 10/2019. It is my medical opinion that [REDACTED] should remain out of work until her symptoms are improved. It is unknown at this time when she may return." (Petitioner exhibit A)
7. Petitioner has diagnoses of ulcerative colitis and vertigo, with dizziness and memory problems.

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. 57)

In this case, Petitioner was previously found to be deferred from participating with PATH. Petitioner's medical conditions have not improved since she was previously found deferred. The Department could not explain at hearing in what way Petitioner's condition has improved. Petitioner continues to have diagnoses of ulcerative colitis and vertigo, with dizziness and memory problems.

Petitioner's treating physician opined that Petitioner is unable to work. Petitioner's treating physician's opinion is supported by substantial medical evidence and should be given weight.

Petitioner had good cause for failing to participate with PATH because she is physical unfit for participating 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 FIP benefits back to the date of closure.
2. Award a supplement for any missed 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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