



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: December 23, 2020  
MOAHR Docket No.: 20-006420  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 December 9, 2020. [REDACTED], the Petitioner, appeared on his own behalf. [REDACTED] wife, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Irma Aranda-Cruz, Family Independence Manager (FIM), and Domini Melson, Eligibility Specialist (ES).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-199.

### **ISSUE**

Did the Department properly close and sanction Petitioner's Family Independence (FIP) benefits, and decrease and sanction Food Assistance Program (FAP) benefits for failing to participate with 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. Petitioner's household receives ongoing FAP benefits.
2. Petitioner's household applied for FAP.
3. Petitioner claimed an ongoing disability and is seeking a deferral from participating with PATH.

4. Petitioner's wife is seeking a deferral from participating with PATH as the caretaker for Petitioner.
5. On January 6, 2020, the Department received confirmation from the Social Security Administration that Petitioner is awaiting a hearing regarding his claim for RSDI benefits. (Exhibit A, pp. 3-4)
6. On July 20, 2020, Disability Determination Services (DDS) determined that Petitioner was not disabled and was work ready with limitations. (Exhibit A, pp. 17-23)
7. A Physical Residual Functional Capacity Assessment indicated the limitations due to seizure disorder are: to avoid all ladders, ropes, and scaffolds; avoid concentrated exposure to vibration; and avoid all exposure to hazards. (Exhibit A, pp. 30-37)
8. On August 11, 2020, a PATH Appointment Notice was issued to Petitioner and his wife with an appointment date of [REDACTED], 2020. (Exhibit A, pp. 183-184)
9. Petitioner and his wife called in for the telephone appointment and explained that they would not be able to participate in the PATH program due to Petitioner's condition and the need for his wife to provide care for him. (Petitioner and Wife Testimony)
10. On September 8, 2020, a Notice of Case Action was sent to Petitioner's FAP group stating FIP would close and FAP would decrease effective October 1, 2020, based on a failure to participate in employment and/or self-sufficiency-related activities, quitting a job, being fired, or reducing hours of employment without good cause. It was stated that FIP must remain closed for at least three months from October 1, 2020, through December 31, 2020, and Petitioner and his wife would be disqualified for FAP for the month of October 2020. (Exhibit A, pp. 185-189)
11. On September 8, 2020, Notices of Noncompliance were issued to Petitioner and his wife based on no initial contact with the Michigan Works Agency (MWA). It was marked that these were the first instances of non-compliance, therefore, the FIP case would close for a minimum of three months; and they would be disqualified from FAP for one month, or until compliance, whichever is longer. A telephone meeting was scheduled for [REDACTED] 2020. (Exhibit A, pp. 190-195)
12. On September 29, 2020, Petitioner and his wife filed a hearing request contesting the FIP and FAP determinations. (Exhibit A, pp. 196-198)

## **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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

For FIP, the Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, January 1, 2020, p. 1.

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 includes failing to or refusing to appear and participate with PATH or other employment service provider. BEM 233A, p. 2.

BEM 233A addresses good cause for noncompliance:

### **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:

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### **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.

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### **Clients Not Penalized**

Ineligible caretakers, disqualified aliens, and single parents who cannot find appropriate child care for a child under age six are not required to participate; see BEM 230A for required verification.

BEM 233A, pp. 4-7  
(portions of list omitted by ALJ)

Noncompliance without good cause, with employment requirements for FIP may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233B, January 1, 2019, p. 1.

In this case, the DDS determined that Petitioner was not disabled and was work ready with limitations. (Exhibit A, pp. 17-23) A Physical Residual Functional Capacity Assessment indicated the limitations due to seizure disorder are: to avoid all ladders,

ropes, and scaffolds; avoid concentrated exposure to vibration; and avoid all exposure to hazards. (Exhibit A, pp. 30-37)

On August 11, 2020, a PATH Appointment Notice was issued to Petitioner and his wife with an appointment date of [REDACTED] 2020. (Exhibit A, pp. 183-184)

Petitioner and his wife called in for the [REDACTED] 2020, telephone appointment with PATH. However, they explained that they would not be able to participate in the PATH program due to Petitioner's condition and the need for his wife to provide care for him. Petitioner has seizures multiple times per week. Therefore, they would not be able to get to the appointments and do what was required. Petitioner understood that the PATH program would require them to fill out job applications and attend meetings. PATH would help them find employment and could offer education and training toward a career. Petitioner believed this would be done online, such as zoom meetings. However, as Petitioner does not know when he will have a seizure, he does not feel he can honestly apply for a job he would not be able to do. Petitioner was also not 100 percent confident that he would be able to start looking for jobs and do training. Petitioner's wife explained that she is Petitioner's caretaker. When Petitioner has a seizure, she has to make sure that he does not hurt himself and stay with him until he wakes up, which can take many hours each time. On average, Petitioner has one to two seizures per week, but it can be more or less. Recently, on [REDACTED] 2020, Petitioner had ten seizures in one day and was sent to the hospital. Petitioner also explained that they have tried to re-apply and get additional medical information, but it has been hard. A lot of the medical appointments are a long way out and many specialists are not seeing new patients. (Exhibit A, pp. 196-198; Petitioner and Wife Testimony)

The Department explained that even though Petitioner and his wife called in for the PATH telephone appointment, it was considered noncompliance because Petitioner and his wife did not complete the PATH orientation process. (ES Testimony)

Petitioner asserted that he is unable to work or participate in PATH due to having seizures and his wife is his 24-hour caregiver, therefore she is also unable to participate. It is understood that Petitioner cannot predict when or how often he will have seizures and therefore he is uncertain that he would be able to fulfill his responsibilities with PATH, or with an employer. However, based on the available medical evidence, DDS determined that Petitioner was work ready with some limitations due to his seizures. Specifically, the limitations due to seizure disorder are: to avoid all ladders, ropes, and scaffolds; avoid concentrated exposure to vibration; and avoid all exposure to hazards. (Exhibit A, pp. 30-37) Completing the PATH orientation process would not have exceeded these limitations. Overall, Petitioner and his wife have not established good cause for failing to participate with PATH.

Petitioner's testimony indicated his condition may have worsened, such as having ten seizures in one day. Accordingly, Petitioner may wish to continue with the re-application process and provide additional medical documentation.

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 and sanctioned Petitioner's FIP case and reduced and sanctioned FAP benefits based on failing to participate with PATH.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



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Colleen Lack  
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  
Van Buren County DHHS – via electronic  
mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

G. Vail – via electronic mail

B. Cabanaw – via electronic mail

H. Norfleet – via electronic mail

**Petitioner**

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