



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: February 26, 2021  
MOAHR Docket No.: 20-007842  
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 February 18, 2021, from Lansing, Michigan. The Petitioner was represented by herself. Petitioner's father-in-law, [REDACTED] appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by Maia Elvine-Fair, AP Supervisor. Sylvia Copeland, Eligibility Specialist also appeared and testified for the Petitioner. Department Exhibit 1, pp. 1-39 was received and admitted.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) 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. On [REDACTED] Petitioner applied for FIP benefits. (Ex. 1, pp. 8-14)
2. On May 19, 2020, Petitioner was approved for FIP benefits. (Ex. 1, pp. 15-20)
3. On July 1, 2020, Petitioner was sent a PATH appointment notice for a July 20, 2020, appointment. (Ex., 1, pp. 24-27)
4. On July 25, 2020, Notice of Noncompliance was sent to Petitioner for failing to appear at the PATH appointment. (Ex.1, pp. 28-30)

5. On July 25, 2020, a Notice of Case Action was sent to Petitioner informing her that her case would close effective September 1, 2020. (Ex. 1, pp. 31-36)
6. A triage meeting was scheduled for August 3, 2020. Petitioner did not appear at the triage meeting and the case was processed for closure with a 3-month penalty.
7. On December 14, 2020, Petitioner requested hearing disputing the closure of FIP benefits. (Ex. 1, pp. 3-4)
8. Petitioner credibly testified at hearing that she called both phone numbers provided to her in the PATH appointment notice and the calls were not answered. Petitioner credibly testified that she left messages at the number in the PATH appointment notice but never received a call back.

### **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.

### **NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES**

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 means doing any of the following without good cause:

- Failing or refusing to: Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider. BEM 233A (January 2020)

In this case, Petitioner credibly testified that she contacted both phone numbers provided on the PATH appointment notice and left messages at both phone numbers and her calls were not answered. Petitioner did not receive any call back. The undersigned administrative law judge cannot find that Petitioner failed to appear or refused to participate with PATH, when she took the action she was instructed to complete, by contacting the telephone numbers provided in the PATH appointment

notice. Therefore, the closure for failing or refusing to participate with PATH was improper and incorrect. 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 or refusing 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. Lift the penalty sanction.
3. Issue a supplement for any missed benefits.

AM/ml



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Aaron McClintic  
Administrative Law Judge  
for Elizabeth Hertel, 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**

Courtney Jenkins  
Washtenaw County DHHS – via electronic  
mail

BSC4 – via electronic mail

G. Vail – via electronic mail

B. Cabanaw – via electronic mail

**Petitioner**

██████████ – via first class mail

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