



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: March 10, 2021
MOAHR Docket No.: 21-000384
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 4, 2021. Petitioner was represented by ██████████ ██████████ and Petitioner testified on her own behalf. The Department was represented by Barbara Schram, Terri Beavers, and Angie Morgan.

ISSUE

Did the Department of Health and Human Services (Department) properly sanction Petitioner's cash assistance?

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 ██████████ ██████████ 2020, the Department received Petitioner's application for cash assistance where she acknowledged the duties and responsibilities of receiving cash assistance. Exhibit A, pp 2-7.
2. On October 23, 2020, the Department notified Petitioner that she was eligible for cash assistance effective October 16, 2020. Exhibit A, pp 14-18.
3. On January 5, 2021, the Department assigned Petitioner to searching for employment for 25 hours per week and listening to 10 hours of TED talks on interviewing. Exhibit A, p 19.
4. On January 12, 2021, the Department received Petitioner's assignment log indicating that she spent less than 25 hours of searching for employment during the week of January 3, 2021. Exhibit A, p 20.

5. The Department made a collateral contact with the manager of a business that Petitioner claimed to be seeking employment, and the manager reported that Petitioner had not applied for employment at that store. Hearing testimony.
6. On January 12, 2021, the Department notified Petitioner that she had been found to be noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit A, pp 22-24.
7. A triage meeting was scheduled for January 21, 2021, where Petitioner was given the opportunity to establish good cause for her noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program. Exhibit A, pp 22-24.
8. On January 12, 2021, the Department notified Petitioner that she was no longer eligible for cash assistance effective February 1, 2021. Exhibit A, pp 25-30.
9. On January 24, 2021, the Department received Petitioner's request for a hearing protesting her disqualification from receiving cash assistance. Exhibit A, p 1.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (January 1, 2021), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (December 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 means doing any of the following without good cause:

- Failing or refusing to:
 - Provide legitimate documentation of work participation.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity.
 - Complete a job application.
 - Appear for a job interview.

BEM 233A, pp 2-3.

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. BEM 233A, p4.

Good cause includes the following:

- Client Unit: 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.
- 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.

BEM 233A, pp 4-6.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

The Department will determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or PATH. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, pp 9-10.

A Work Eligible Individual (WEI) and non-WEIs, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).

Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p 1.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (January 1, 2019), p 3.

Petitioner acknowledged the duties and responsibilities of receiving cash assistance on an application for assistance dated [REDACTED] 2020. On [REDACTED] 2020, the Department approved Petitioner's application.

As a work eligible individual, Petitioner was assigned to the PATH program as a condition of eligibility for cash assistance. On January 5, 2021, she was notified in writing that she would be required to search for employment for 25 hours per week and listen to 10 hours of TED talks on interviewing per week. Petitioner was also required to document her activities and provide verification that her assignments had been completed.

On January 12, 2021, the Department received a PATH assignment log. This assignment log indicated that Petitioner had been searching for employment, but for less than 25 hours per week. Upon further review, one of the business where Petitioner claimed to have searched for employment denied having contact with Petitioner. The Department concluded that the assignment log had been falsified and that Petitioner had falsely reported searching for employment.

A triage meeting was held on January 21, 2021, where Petitioner was given the opportunity to establish good cause for her noncompliance with her PATH assigned activities. At the conclusion of the triage meeting, the Department determined that Petitioner did not have good cause for her noncompliance with PATH activities.

Petitioner argues that she did not falsify her job search log and that she did search for employment at all the business listed on her log sheet. Petitioner testified that the log sheet she submitted indicated employment that she intended to apply for.

The Department's witness credibly testified about a collateral contact with the manager at the business where Petitioner claims to have searched for employment. No evidence was presented on the record supporting Petitioner's claims of seeking employment at the business where the Department alleges the log sheet has been falsified.

However, even if the job search log was not falsified, Petitioner failed to provide verification of 25 hours of job search activity during that week. Failing to complete the assigned activities of the PATH program is considered noncompliance with self-sufficiency activities.

Petitioner claims that she had good cause for her noncompliance with the PATH program. Petitioner claims to have medical impairments that make her unfit for employment. Petitioner claims that she had requested a deferral from the PATH program because she is unfit for employment. Petitioner argued that the Department had not set a due date for returning forms to establish her lack of fitness for employment and that she was unable to get it completed by a treating medical provider in a timely manner.

However, no evidence was presented on the record that Petitioner provided documentation supporting her claim that she is unfit for employment. Petitioner submitted a log sheet showing that she had been capable of applying for employment. The Department provided Petitioner with a form to establish that her medical impairments prohibit her from searching for employment or performing self-sufficiency related activities, but this form was not returned until after her benefits were sanctioned.

Further, there is no deadline for submitting verification of impairments limiting employment in the absence of any information supporting that such impairments exist. Petitioner failed to establish a physical or mental impairment that would make her unfit for employment, or that she had provided the Department with sufficient reason to have her case evaluated by the Department's Medical Review Team (MRT) before her noncompliance with her required activities.

Petitioner argued that a lack of internet access was a barrier to the completion of her PATH activities.

Although inconsistent internet access could potentially be a barrier to the viewing of online TED talks and submitting online applications for employment, the Department did not allege that Petitioner failed to complete that part of her PATH assignment. Petitioner's assignment log indicated that she could seek employment without the internet. Petitioner failed to establish that her internet connect was a barrier to completing 25 hours of job searches that she could not overcome.

Petitioner argued that had just moved, and that this was a barrier to the completion of her PATH activities.

This Administrative Law Judge finds that moving to a new home does not meet the definition of an unplanned event and is not a barrier to the completion of PATH activities that was beyond Petitioner's ability to overcome.

Petitioner argued that she was not permitted to present evidence of good cause at the triage meeting.


The Department's witness credibly testified that Petitioner given the opportunity to establish good cause. The hearing record supports a finding that Petitioner failed to identify a good cause reason for failing to complete her PATH activities during her administrative hearing that was not evaluated during the triage meeting, and that she had the opportunity to present those claims of good cause at the triage meeting. The Department representatives at the triage meeting may not have been accepting of her claims of good cause, but she had an opportunity to present and establish those claims to the Department.

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 determined that Petitioner was noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program without good cause resulting in her disqualification from receiving cash assistance.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Barbara Schram - 35
2145 East Huron Road
East Tawas, MI
48730

MDHHS-GR8North-Hearings- via
electronic mail

BSC1- 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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