



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]

Date Mailed: March 31, 2021  
MOAHR Docket No.: 21-000871  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 three-way hearing was held on March 23, 2021, from Bloomfield Hills, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Mita Bhatia, Case Manager.

### **ISSUES**

Did the Department properly close the Petitioner's Family Independence Program (FIP) cash assistance and impose a sanction for failure to attend Path without good cause?

Did the Department properly remove the Petitioner from her Food Assistance Program (FAP) Benefits for failure to attend Path without good cause?

### **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 completed a Medical Needs Form on October 30, 2020 which stated that she was disabled and unable to work. Exhibit A, p. 3.
2. On October 30, 2020, the Department sent the Petitioner a Medical Determination Verification Checklist, a Medical Needs Form, A Medical Questionnaire and an Authorization to Release Protected Health Information to be completed by November 9, 2020. Exhibit A, pp. 4-7. The Department also sent the Petitioner a QUIK NOTE on October 30, 2020 stating "You must complete all the paperwork sent to you regarding your medical deferral. Also, submit verification of your status

with SSI.” All the Notices and QUIK NOTE were addressed and mailed to Petitioner at the correct address of record, [REDACTED] Michigan 48307. The Department deferred the Petitioner from attending Path pending receipt of the Medical packet information.

3. Due to the medical forms sent on October 30, 2020 not being returned by the Petitioner, the Department sent a Path Appointment Notice to Petitioner on December 15, 2020 advising her that she was to attend a Path Appointment on December 22, 2020, at 9:30am. Exhibit A, p. 9. The Path Notice was correctly addressed to Petitioner at her address of record set forth in paragraph 2. Exhibit A, p. 9.
4. On January 4, 2021, the Petitioner was sent a Notice of Case Action (Notice) closing Petitioner’s Cash Program benefits and decreasing her FAP benefits to \$204.00 a month. The Notice stated the Cash Program was cancelled and gave the reason as “For the second time you failed to participate in employment and/or self-sufficiency related activities ... FIP must remain closed for at least six (6) months. The group won’t get benefit from 2/1/21 through 7/31/21.” The Notice also advised that Petitioner’s FAP was closed...you failed to participate in FAP employment-related activity requirement. This person [Petitioner] won’t get benefits from February 1, 2021 through July 31, 2021”. Exhibit A, pp. 11-13.
5. The January 4, 2021 Notice of Case Action was sent to the Petitioner at to her address of record.
6. The Petitioner was sent a Notice of Noncompliance on January 4, 2021 advising her that on January 1, 2021 Petitioner failed to appear for a Path Appointment and advised her of a new appointment date for January 12, 2021 at 1:00 pm to provide Petitioner with an opportunity to report and verify your reasons for noncompliance and allowed her to request a telephone meeting before the scheduled date. The Notice advised Petitioner that this was the second time she had been non-complaint with FAP and/or FIP. The Notice indicated that her FIP case would close for 6 months and she would be disqualified from receiving FAP for 6 months. Petitioner was advised that she had the right to claim good cause if she believed that she should be excused from FIP and/or FAP work rules. If good cause was verified, the FIP case would not close or FAP reduced. The Notice also listed in detail good cause reasons. Exhibit A, pp. 15-17. The Notice of Noncompliance was sent to Petitioner at her address of record. The Petitioner did not appear for the triage to demonstrate good cause. The Department held the triage in Petitioner’s absence and found no good cause for Petitioner’s failure to participate.
7. The Department had no returned mail for any of the forms or notices sent to Petitioner set for in Findings of Fact paragraphs 1-6 above.
8. Petitioner requested a timely hearing regarding closure of her FIP cash assistance and decrease of her FAP which request was received by the Department on [REDACTED], 2021. The Hearing Request stated that “We are no longer receiving

FAP benefits and Cash Assistance was closed. Note: we have disabilities. Note: I can only work where I work for 3 hrs a day.” Petitioner listed [REDACTED], Michigan 48307 as her mailing address. Exhibit A, pp 20-21.

### **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.

In this case, the Department had previously deferred the Petitioner from attending the Path program due to her filing a Medical Needs Form claiming a disability causing her to be unable to work and participate in the Path program. The Department deferred the Petitioner from attending the Path Program and on October 30, 2020 sent Petitioner the necessary medical forms for her to complete by November 9, 2020 so that her claim of disability could be processed with the Disability Determination Service. In addition, on the same date as the medical forms were sent, the Department sent the Petitioner a QuikNote advising her “You must complete all the paperwork sent to you regarding your medical deferral. Also, submit verification of your status with SSI.” The Petitioner did not return the medical forms in a timely manner and returned the forms late sometime in December 2020 well after the due date.

All the forms sent to Petitioner by the Department including the Medical forms, the Quik Note, the Path Appointment Notice and the Notice of Noncompliance with Path employment related activities and Notice of Case Action were sent to the same address of record and were not returned to the Department as returned mail. The Petitioner testified that she did not receive any of the forms.

It is well established Michigan law that a letter properly addressed and mailed creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v*

*Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

In this case, a total of five (5) separate communications were sent to the Petitioner which were correctly address and mailed. In addition, the Petitioner did not indicate that she had problems with her mail during the hearing, and also testified that she was anticipating receiving medical forms to complete, however did not contact the Department at any time to determine why she had not received the medical forms packet. In addition, Petitioner's hearing request did not state that she did not receive any of the forms. It was at the hearing that she testified that the reason she did not appear for Path, or the triage was due to not receiving any of the notice, and did not receive the medical forms. This testimony conflicted with the fact that she in fact filed some medical forms in December 2020 which were untimely. The Petitioner also has a history with Path procedures based upon the fact that she previously had been sanctioned for noncompliance. This unexplained inaction on behalf of the Petitioner, and lack of contact with the department indicates that the forms were properly sent and the presumption that the documents were received. This conclusion is also bolstered by the fact that no mail was returned to the department as undeliverable. The Department representative credibly testified that she did not receive any communication from Petitioner during the period until after her FIP case closed and her FAP benefits were reduced and the hearing request was filed by Petitioner.

The Department, following Department policy in BEM 233A and BEM 233B closed and sanctioned the Petitioner's FIP and disqualified her from receiving FAP due to the fact that Petitioner failed to participate in Path employment related activities as required by Department policy and the Notices provided to her. In support of its contention that Petitioner failed participate in Path, it cited Petitioner's failure to appear at her Path appointment on December 22, 2020 sent to her on December 15, 2020. In addition, the Petitioner also failed to appear pursuant the Notice of Noncompliance sent to her January 4, 2021 advising her that she could appear for a triage on January 12, 2021 at 1:00pm and present good cause reasons why she failed to appear for her Path Appointment. The Petitioner did not appear at the triage, or otherwise present any good cause reason for her failure to participate in Employment related activities. The Department conducted the triage in Petitioner's absence as required by Department policy and found no good cause and imposed a 6-month second sanction.

At the hearing, the Petitioner alleged she was disabled and should not be required to attend Path and did not receive any of the forms sent to her.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Noncompliance includes failing or refusing to appear and participate in PATH or other employment service provider. BEM

233A, p. 2. Penalties include 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. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8. The Department testified a triage was held as scheduled and that Petitioner did not appear or request a rescheduling and good cause was considered and the Department determined no good cause was found.

Based upon the policy in BEM 233A regarding FIP noncompliance without good cause, for the individuals second occurrence of noncompliance, bridges closed the FIP cash assistance case for not less than 6 calendar months. BEM 233A (January 2021), p. 8. Pursuant to BEM 233B governing sanctions for failure to meet employment requirements for FAP, the Department indicated that due to Petitioner's failure to participate in employment related activity, she was disqualified from February 1, 2021 through July 31, 2021 and may reapply after July 1, 2021. Petitioner was also advised she could reapply any time if she becomes deferred, obtains comparable employment, leaves the FAP group or becomes eligible for FIP Cash Assistance.

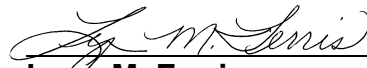
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it found no good cause for failure to participate in the Path program employment related activities and properly sanctioned the Petitioner closing her FIP cash assistance for 6 months and disqualifying her from receipt of FAP benefits for herself for 6 months for failure to comply with FAP work requirements and employment related activities.

**DECISION AND ORDER**

Accordingly, the Department's decision is

**AFFIRMED.**

LF/tm



---

**Lynn M. Ferris**  
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

**Via Email:**

MDHHS-Oakland-2-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

**Petitioner – Via First-Class Mail:**

██████████  
██████████  
████████████████████