



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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Date Mailed: August 4, 2021  
MOAHR Docket No.: 21-003210  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 July 28, 2021, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Khaled Abouelazm, Family Independence Specialist and Mary Pennington, Michigan Works PATH Liaison.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to a failure to participate in employment and/or self-sufficiency related activities 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 was an ongoing recipient of FIP benefits.
2. As a condition of FIP eligibility, Petitioner was required to participate in the Partnership. Accountability. Training. Hope. (PATH) program through Michigan Works by attending scheduled PATH meetings, submitting PATH assignments, and maintaining weekly contact with her PATH case manager.
3. On April 5, 2021, the Michigan Works agency sent Petitioner a Noncompliance Warning Notice advising her that she was determined to have been noncompliant with PATH because she failed to meet for a scheduled meeting, failed to submit her March 22, 2021, assignment, and failed to maintain weekly contact with her

PATH case manager. The Noncompliance Warning Notice instructed Petitioner to attend a telephone re-engagement meeting that was scheduled for April 12, 2021, at 10:30 AM. (Exhibit A, p.4)

4. Petitioner did not attend the scheduled April 12, 2021, re-engagement meeting and Petitioner's case manager at Michigan Works made several attempts to contact Petitioner by telephone and email. (Exhibit A, pp. 5-7)
5. Petitioner returned the case manager's call on or around April 29, 2021, and a re-engagement meeting was held via telephone on that date. The case manager documented her contact and the details discussed during the re-engagement meeting were outlined in the case notes presented for review. The case notes indicate that at the conclusion of the re-engagement meeting, Petitioner refused to sign the PATH Re-engagement Agreement and was notified that a triage would be scheduled with the Department. (Exhibit A, pp. 5-8)
6. On May 5, 2021, the Michigan Works agency sent Petitioner a Triage Meeting Notice, advising her that she was considered noncompliant with PATH requirements and informing her that a triage has been requested with the Department due to a refusal to sign the re-engagement agreement and verbally indicating a refusal to cooperate and participate in the program. The Triage Meeting Notice was sent to Petitioner via email and mail and advised Petitioner that she will receive the triage appointment notice from the Department. (Exhibit A, pp. 5-11)
7. On May 5, 2021, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on May 13, 2021 at 9:00 AM, to discuss whether she had good cause for her alleged noncompliance and failure to participate in PATH as required. (Exhibit A, pp. 12-14)
8. On May 5, 2021, the Department sent Petitioner a Notice of Case Action advising her that effective June 1, 2021, her FIP case would be closed for at least three months because she failed to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit A, pp. 15-19)
9. On May 10, 2021, the Department sent Petitioner an email to the email address it had on file for her and notified Petitioner that the Department had been unable to reach her by phone to verbally advise her of the scheduled triage. The email provided Petitioner with the date and time of the triage meeting, as well as the telephone number and conference ID to participate. (Exhibit A, pp. 20-21)
10. On May 13, 2021, a triage was held in Petitioner's absence, at the conclusion of which, the Department determined that Petitioner did not have good cause for her noncompliance. (Exhibit A, pp. 6-7, 18-23)
11. On May 25, 2021, Petitioner contacted the Department regarding her missed triage appointment on May 13, 2021. The Department spoke with Petitioner on May 26,

2021, regarding her failure to appear at the scheduled triage appointment. Petitioner reported to the Department that she changed her phone number on May 8, 2021, and no longer has access to the email account used by the Department. Petitioner reported to the Department that she contacted her case manager and participated in PATH. The Department rescheduled the joint triage with Michigan Works and spoke with Petitioner on May 26, 2021, to advise her of the date, time, and phone number to participate in the rescheduled triage, which was now set for May 27, 2021, at 9:00 AM. (Exhibit A, p. 23)

12. On May 27, 2021, a second triage was held, which Petitioner again did not attend. At the conclusion of the triage meeting, the Department determined that Petitioner did not have good cause for her noncompliance with PATH. (Exhibit A, pp. 6-7, 18-25)
13. Petitioner's FIP case closed effective June 1, 2021.
14. On or around June 30, 2021, Petitioner requested a hearing disputing the closure of her FIP case. (Exhibit A, p.26)

### **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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 233A (January 2020), pp. 1-2. The WEI can be considered noncompliant for doing any of the following (including other reasons) without good cause: failing or refusing to participate in PATH or other employment service providers as required; failing to provide legitimate documentation of work participation; failure or refusing to appear for a scheduled appointment or meeting related to assigned activities; stating orally or in writing a definite intent not to comply with program requirements; failing or refusing to participate in employment and/or self-sufficiency related activities or to participate in a require activity; or failing or refusing to accept a job referral, complete a job application or appear for a job interview. BEM 233A, pp 1-4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that is based on factors that are beyond the control of the noncompliant person. Claims of

good cause must be verified and documented. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-7.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities or refuses suitable employment, must be penalized. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include: the name of the noncompliant individual; the date(s) of the noncompliance; the reason the client was determined to be noncompliant; the penalty duration; and the scheduled triage appointment. BEM 233A, pp. 10-12. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (April 2019). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 9-12.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 9-12. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, pp. 12-13. Good cause is determined using the best information available during the triage and prior to the negative action date. If the client does not provide a good cause reason for the noncompliance, the Department will determine good cause based on the best information available. BEM 233A, p. 10-13. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

At the hearing, Ms. Pennington, the Michigan Works PATH Liaison testified that a re-engagement meeting was scheduled with Petitioner to address her noncompliance with required activities, specifically, Petitioner's failure to meet for scheduled meetings, failure to submit her March 22, 2021, assignment, and failure to maintain weekly contact with her PATH case manager. Ms. Pennington testified that during the rescheduled re-engagement meeting on April 29, 2021, Petitioner indicated a refusal to continue cooperating with her work requirements by failing to sign the re-engagement agreement. Therefore, it sent a referral to the Department for a triage meeting to be scheduled. As indicated in the above Findings of Fact, the Department provided Petitioner with the information regarding both the May 13, 2021, triage meeting, as well as the second triage meeting that was rescheduled for May 27, 2021. Based on the case comments presented for review and the testimony of the witnesses during the hearing, Petitioner failed to attend the triage meetings and it was determined that upon review, Petitioner did not have good cause for her noncompliance in participation with the PATH program as required. The Department initiated the closure of Petitioner's FIP case effective June 1, 2021, imposing a three-month sanction for Petitioner's first occurrence of noncompliance without good cause.


At the hearing, Petitioner disputed that she was noncompliant with work-related activities and testified that she participated as required. She testified that she has emails between herself and her Michigan Works case manager, verifying her participation. Petitioner stated that she missed only one call with her case manager because her case manager was on vacation. It is noted that although Petitioner testified that she had verification of her continuous participation with the PATH program and Michigan Works, no documentary evidence was presented for review at the hearing, nor was there any evidence that Petitioner submitted this information to the Michigan Works agency during her April 29, 2021, re-engagement meeting or during the triage meetings, as she failed to attend. With respect to her failure to attend the May 13, 2021, and the May 27, 2021, triage meetings, Petitioner asserted that she did not receive the initial Notice of Noncompliance sent on May 5, 2021. She also indicated that with respect to the second rescheduled triage meeting, the Department informed her that the triage meeting was scheduled for June 3, 2021, and not May 27, 2021. Petitioner stated that she contacted the Department on June 3, 2021, for the triage meeting, and was informed that she missed her appointment. While Petitioner stated that she did not receive the May 5, 2021, Notice of Noncompliance, she confirmed receiving the May 5, 2021, Notice of Case Action mailed to her on that same day. Petitioner's testimony at the hearing was inconsistent and in direct conflict with the case notes prepared by the Michigan Works case manager, as well as the case comments prepared by the Department, which documented in detail the contacts made with Petitioner.

Upon thorough review of the evidence presented and the Department policy, because Petitioner did not establish that prior to the triage and negative action date, she had good cause for her failure to meet for scheduled meetings, failure to submit her March 22, 2021, assignment, failure to maintain weekly contact with her PATH case manager, and failure to sign the re-engagement agreement agreeing to cooperate with work requirements, 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 work related activities without good cause, closed Petitioner's FIP case and imposed a three month sanction effective June 1, 2021.

### **DECISION AND ORDER**

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

ZB/jm

  
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**Zainab A. Baydoun**  
Administrative Law Judge

