



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: September 3, 2021  
MOAHR Docket No.: 21-003555  
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 August 26, 2021. Petitioner represented himself. The Department was represented by Becky Fraser, Rose Mayan, and Larissa Cochran.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Family Independence Program (FIP) benefits?

### **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 Family Independence Program (FIP) recipient, and he was assigned to the Partnership. Accountability. Training. Hope. (PATH) program as a condition of receiving FIP benefits.
2. Department records indicate that Petitioner was not submitting verification that he was completing his assigned tasks in a timely manner. Exhibit A, pp 15-16.
3. Petitioner was scheduled for an appointment scheduled for July 1, 2021, to review his ability to perform activities assigned by the Partnership. Accountability. Training. Hope. (PATH) program. Petitioner did not attend this meeting. Exhibit A, p 15.
4. On July 1, 2021, the Department sent Petitioner a Notice of Noncompliance (DHS-2444) instructing him that his Family Independence Program (FIP) benefits would be sanctioned for three months for noncompliance with a required activity on July 1, 2021. Exhibit A, pp 5-7.

5. A triage meeting was held on July 7, 2021, where Petitioner was given an opportunity to establish good causes for his failure to attend the July 1, 2021, meeting. Exhibit A, p 5.
6. On July 1, 2021, the Department notified Petitioner that his Family Independence Program (FIP) benefits would be sanctioned effective August 1, 2021. Exhibit A, pp 8-13.
7. On July 23, 2021, the Department received Petitioner's request for a hearing. DHHS Exhibit A, p 4.

### **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.

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed. BEM 233A, p 7.

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 for a scheduled appointment or meeting related to assigned activities.

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.

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.

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 was an ongoing FIP recipient, and he was assigned to the PATH program as a condition of receiving FIP benefits. Petitioner was scheduled for a meeting on July 1, 2021, but he failed to attend that meeting or have it rescheduled it. Petitioner was then found to be noncompliant with the PATH program and a triage meeting was scheduled for July 7, 2021, where Petitioner was given an opportunity to establish good cause for his noncompliance.

Petitioner attended the triage meeting where he reported that his medical impairments were a barrier to changing requirements. The hearing record supports a finding that the Department considered Petitioner's concerns but found that he did not have good cause for failing to attend the July 1, 2021, meeting.

Petitioner submitted 54 pages of documents supporting his claim of good cause for his noncompliance with the PATH program. Petitioner also testified that he was having difficulty with changes to the deadlines for him to verify his activity, and that the Department was not properly considering all of the activities that her was performing.


This Administrative Law Judge finds that Petitioner failed to offer evidence that he had good cause for failing to attend the July 1, 2021, meeting, which was his noncompliance with the PATH program and not his ability to submit timely activity logs. The documents Petitioner submitted may be relevant towards his ability to perform required PATH activities, but not with the July 1, 2021, meeting that he failed to attend.

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 did not have good cause for his noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings  
and Rules (MOAHR)

**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**

Kimberly Kornoelje  
121 Franklin SE  
Grand Rapids, MI 49507

Kent County DHHS- via electronic mail

BSC3- 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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██████████, MI ██████████