



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: June 17, 2022  
MOAHR Docket No.: 22-001832  
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 June 9, 2022, from Lansing, Michigan. The Petitioner was represented by her attorneys Mira Edmonds and Peter VandeVort. The Department of Health and Human Services (Department) was represented by Ryon Clemons FIM. Rupal Patel also appeared and testified for the Department. Department Exhibit 1, pp. 1-18 was received and admitted. Petitioner's Exhibits A, B, D, E and F were 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. Petitioner was a recipient of FIP and deferred from participation with PATH.
2. On February 1, 2022, a PATH Appointment Notice was sent to Petitioner with an appointment date of February 14, 2022, when it was discovered that she should no longer be deferred from PATH.
3. Ryon Clemons testified at hearing that Petitioner had until February 17, 2022, to complete PATH orientation.

4. On February 14, 2022, Petitioner and her child were ill, and she contacted the Michigan Works! agency and left a message with one of the numbers they provided to her.
5. The Michigan Works! employee who Petitioner left a message with acknowledged that a voicemail was left on February 14, 2022, but Petitioner was not contacted.
6. Petitioner had until February 17, 2022, to complete her PATH orientation but she was not contacted to reschedule.
7. On February 22, 2022, Notice of Non-compliance was sent to Petitioner with triage appointment notice for February 28, 2022. Notice of Case Action was also sent on this day informing Petitioner that her FIP case would close effective April 1, 2022.
8. At the triage meeting on February 28, 2022, Petitioner was found to not have good cause.
9. On May 2, 2022, Petitioner requested hearing disputing the closure of FIP benefits.

### **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.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.

The specialist should clear any alerts in Bridges relating to rejected PATH referrals as well as any FAST confirmation information the client has obtained before considering a client noncompliant.

Develop a FSSP.

A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.

Comply with activities assigned on the FSSP.

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

Participate in employment and/or self-sufficiency-related activities.

Participate in required activity.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally or in writing a definite intent not to comply with program requirements.

Threatening, physically abusing, or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.

Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

Exception: Do not apply the three-month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified non-citizens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. BEM 233A

In this case, Petitioner had a PATH orientation appointment notice for a February 14, 2022, appointment. On February 14, 2022, Petitioner credibly testified that she and her child were sick with COVID-19 and influenza, and she contacted the Michigan Works! Agency and left a message letting them know she was ill and not able to make her PATH appointment. Ryon Clemons testified at hearing that Petitioner had until February 17, 2022, to complete her PATH orientation. The Michigan Works! employee who Petitioner left a voicemail for on February 14, 2022, acknowledged receiving the voicemail and that the call was not returned. Petitioner should have been contacted and given an opportunity to complete PATH orientation prior to the February 17, 2022, deadline. Because Petitioner was not given a full opportunity to complete PATH orientation it cannot be found that she refused to participate or failed to participate, and she cannot be held in non-compliance. Therefore, there was no basis to close Petitioner's FIP case. 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 to participate with PATH.

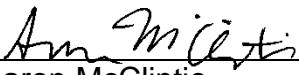
**DECISION AND ORDER**

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. Issue a supplement for any missed benefits.
3. Delete the noncompliance.

AM/nr

  
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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

**Via-Electronic Mail :**

**DHHS**

Courtney Jenkins  
Washtenaw County DHHS  
22 Center Street  
Ypsilanti, MI 48198

**Interested Parties**

Washtenaw County DHHS  
BSC4  
G. Vail  
B. Cabanaw

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

**Counsel for Petitioner**

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