



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR



Date Mailed: June 29, 2022  
MOAHR Docket No.: 22-002289  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 27, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Yvonne Jasper, Family Independence Manager.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) case for failure to comply with employment and self-sufficient related activities?

### **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 had been previously determined to be in noncompliance with FIP employment and self-sufficiency requirements on November 21, 2019 and July 23, 2020.
2. Petitioner had been referred to Work First in the fall of 2021 but had multiple instances of quitting jobs, so she was referred to Michigan Rehabilitation Services (MRS).
3. Petitioner was provided opportunities for childcare as well as transportation to and from work, appointments with MRS, therapy, and Work First.

4. On May 16, 2022, the Department issued a Notice of Noncompliance to Petitioner advising her that records showed that she had refused or failed to participate in employment and/or self-sufficiency related activities required by FIP by May 13, 2022; that this was her third instance of noncompliance; and that her FIP benefits would be closing with a lifetime sanction.
5. On the same day, the Department issued a Notice of Case Action to Petitioner advising her that her FIP case would close effective June 1, 2022 for failure to comply with employment and/or self-sufficiency activities without good cause for a third time.
6. On May 24, 2022, the Department received Petitioner's request for hearing disputing the closure of her FIP case.

### **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.

In this case, Petitioner's FIP case was closed for failure to comply with employment and self-sufficiency related activities on multiple occasions after being provided childcare and transportation services. The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (January 2022), p. 1. Federal and state laws require each work-eligible individual in the FIP group to participate in PATH or engage in activities that meet participation requirements. *Id.* A work-eligible individual who refuses, without good cause, to participate in an assigned employment and/or other self-sufficiency-related activities is subject to penalties. *Id.* Good cause for noncompliance may be established when a client has 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. BEM 233A (January 2022), p. 4. Good cause for noncompliance is a valid reason based upon factors beyond the control of the noncompliant person. BEM 233A, p. 4. It includes employment greater than 40 hours, the client being physically or mentally unfit, illness or injury, failure to provide reasonable accommodation, no child care, no transportation, discrimination, employment involving illegal activities, an unplanned event or factor such as a hospitalization, comparable work, or finally, a long commute. BEM 233A, pp. 4-6.

A lack of childcare can only be considered good cause for noncompliance with work and self-sufficiency requirements when the childcare available is inappropriate for the child's age, disabilities, or other conditions; when the total commute time to and from work and the childcare facility exceeds three hours per day; when the providers do not meet applicable local and state standards; or when the childcare is not available at a rate of payment or reimbursement offered by the Child Development and Care (CDC) program. BEM 233A, pp. 5-6.

A lack of transportation can only be considered good cause for noncompliance when a client requests transportation services and reasonably priced transportation is not available to the client. BEM 233A, p. 6.

Petitioner was assigned to Work First in the fall of 2021 and then was hired by four employers. Petitioner quit three of those jobs, one of which was within one day of starting. Petitioner argued that she did not have childcare available to her. The Department then provided Petitioner with childcare opportunities, but Petitioner declined those opportunities because she was fearful of sending her child to a facility given the recent shootings at schools and other facilities. Petitioner was then referred to MRS in March 2022. Despite the referral and transportation being made available to her, Petitioner did not attend her therapy or appointments with MRS. Unfortunately for Petitioner, while her concerns about sending her child out of the home for care are understandable, this is not a reason for which good cause can be established. Furthermore, Petitioner has not established a good cause reason for failing to attend her appointments with MRS. Therefore, the Department properly closed Petitioner's FIP case for noncompliance with employment and self-sufficiency activities.

When a client becomes noncompliant with PATH requirements without good cause or a deferral, the following penalties apply:

- For the first occurrence of noncompliance, the closure is for not less than three calendar months.
- For the second occurrence, the closure is for not less than six calendar months.
- For the third occurrence, the closure is applied as a lifetime sanction.

BEM 233A, p. 8. Petitioner was first found noncompliant in November of 2019 and then again in August 2020. Therefore, the instance of noncompliance in this case from May 2022 is her third occurrence and a lifetime sanction is appropriate.

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 closed Petitioner's FIP case and applied a lifetime sanction.

**DECISION AND ORDER**

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

AMTM/cc



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**Amanda M. T. Marler**  
Administrative Law Judge

**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 :**

**Interested Parties**

MDHHS-Wayne-17-hearings  
BSC4-HearingDecisions  
D. Sweeney  
G. Vail  
B. Sanborn  
MOAHR

**Via-First Class Mail :**

