



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: September 23, 2022

MOAHR Docket No.: 22-003486

[REDACTED]

Agency No.: [REDACTED]

[REDACTED] MI [REDACTED]

Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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 September 13, 2022, from Lansing, Michigan. [REDACTED]

[REDACTED] the Petitioner appeared on his own behalf. [REDACTED] Wife, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Larissa Cochran, Case Manager. Becky Fraser, Manager, Tawana Brown, Talent Solutions Manager, and Christine Ingabire, Career Coach, appeared as witnesses for the Department. [REDACTED] Interpreter # [REDACTED] Linguistica International, provided interpretation services during the hearing.

During the hearing proceeding, the Department's original Hearing Summary packet was admitted as Exhibit A, pp. 1-19. The record was left open for Petitioner to submit additional documentation. It has also been discovered that the Department submitted an additional Hearing Summary packet which has been admitted as Exhibit B, pp. 1-44. Petitioner's additional documentation was admitted as Exhibit 1, pp. 1-11 and Exhibit 2, pp. 1-4.

### **ISSUE**

Did the Department properly close and sanction the Petitioner's Family Independence Program (FIP) case for noncompliance with Partnership, Accountability, Training, Hope (PATH) program requirements?

### **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 and his wife were recipients of FIP benefits and a mandatory PATH participant.
2. On June 21, 2022, a Career Coach spoke with the community service site, who indicated they had yet to send Petitioner hours. (Exhibit A, p. 10)
3. June 23, 2022 notes from the Career Coach indicate Petitioner had multiple barriers that prevent them from meeting PATH requirements. Petitioner was referred to refugee services. (Exhibit A, p. 10)
4. A June 28, 2022 note indicated Petitioner provided verification of community service hours for the weeks of June 12 and June 19. (Exhibit A, p. 9)
5. A July 12, 2022 note indicated Petitioner had followed up with the refugee worker and immigration office. (Exhibit A, p. 9)
6. On July 15, 2022, the Career Coach attempted to contact Petitioner, who did not answer. The Career Coach noted he would try again. (Exhibit A, p. 9)
7. On July 21, 2022, the Career Coach attempted to contact Petitioner, who did not answer. A voicemail was left. (Exhibit A, p. 9)
8. On July 21, 2022, a non-compliance warning was issued to Petitioner for failing to provide their community service hours for the weeks of June 29, July 3, and July 10, 2022. (Exhibit A, p. 9)
9. On July 22, 2022, Petitioner emailed his Career Coach the results of a July 15, 2022 MRI, activity logs for the weeks of June 12, 2022 and June 19, 2022, and screen shots from Duolingo. (Exhibit B, pp. 29-35; Exhibit 1, pp. 1-11)
10. On July 29, 2022, the PATH Career Coach spoke with Petitioner. Petitioner indicated they thought the community service was a one-time activity that would end in a month, which was completed in June. (Exhibit A, p. 9)
11. On July 29, 2022, a Notice of Noncompliance (DHS-2444) was issued to Petitioner based on no participation in required activity with a July 29, 2022 date. (Exhibit A, pp. 5-7)
12. On July 29, 2022, a Notice of Case Action was issued to Petitioner, in part, stating the FIP case would close effective September 1, 2022, due to an alleged violation of the PATH program requirements. (Exhibit A, pp. 14-19)
13. On ██████████ 2022, a triage meeting was held. Petitioner attended and indicated he wanted to have a face-to-face meeting to bring in documents. Petitioner also indicated there was some confusion regarding how many hours of community service were required. No good cause was found for Petitioner's non-compliance. (Exhibit A, pp. 8-9)

14. On August 9, 2022, Petitioner filed a request for hearing contesting the Department's action regarding cash assistance. (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.

For FIP, the Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, January 1, 2022, p. 1.

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 includes providing legitimate documentation of work participation, appearing for a scheduled appointment or meeting related to assigned activities, participating in employment and/or self-sufficiency-related activities, and participating in required activity. BEM 233A, p. 2.

BEM 233A addresses good cause for noncompliance:

#### **GOOD CAUSE FOR NONCOMPLIANCE**

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. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period.

Good cause includes the following:

### **Client Unfit**

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability related needs or limitations may not have been identified or assessed prior to the noncompliance.

### **Illness or Injury**

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

BEM 233A, pp. 4-5

In this case, Petitioner and his wife were recipients of FIP benefits and a mandatory PATH participant. The Department asserts that Petitioner and his wife were noncompliant with PATH requirements, specifically, not providing the logs of the required weekly community service hours.

On July 21, 2022, a non-compliance warning was issued to Petitioner for failing to provide their community service hours for the weeks of June 29, July 3, and July 10, 2022. (Exhibit A, p. 9)

Petitioner and his wife credibly testified that there was confusion regarding the amount of required community service hours. (Petitioner and Wife Testimony) The testimony of the Career Coach indicated the hours would have changed after Petitioner completed the Application Eligibility Period (AEP). (Career Coach Testimony) On July 29, 2022, a Career Coach spoke with Petitioner. Petitioner indicated they thought the community service was a onetime activity that would end in a month, which was completed in June. The Career Coach reminded Petitioner that they had to participate in community service every week. (Exhibit A, p. 9) It is noted that the documentation provided from PATH does not specify what the required hours were for the weeks of June 29, July 3, and July 10, 2022, or indicate how Petitioner and his wife were notified of the amount of community service hours required. (Exhibit A, p. 9)

Additionally, on July 22, 2022 Petitioner emailed his PATH Career Coach the results of a July 15, 2022 MRI. (Exhibit B, pp. 29-35; Exhibit 1, pp. 1-11) It does not appear that

PATH ever considered Petitioner's medical impairment or acknowledged receiving this medical documentation. (Exhibit A, p. 9) Further, it appears that Petitioner requested an opportunity to submit documentation during the triage meeting, but was not given an opportunity to do so before the determination was made that there was no good cause. (Exhibit A, p. 8)

Overall, Petitioner has established good cause for the alleged PATH noncompliance. The evidence supports Petitioner's credible testimony that there was confusion regarding the required community service hours and that Petitioner provided documentation of a medical impairment with his back.

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 and sanctioned Petitioner's FIP case based on 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 retroactive to the September 1, 2022 effective date.
2. Remove the non-compliance sanction for the July 29, 2022 noncooperation date.

CL/ml

  
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**Colleen Lack**  
Administrative Law Judge

