



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: November 21, 2022
MOAHR Docket No.: 22-004770
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 November 17, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Ashley Green and Mia Elvine-Fair.

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. On ██████ ██████ 2022, the Department received Petitioner's application for Family Independence Program (FIP) benefits. Exhibit A, pp 5-10.
2. On August 15, 2022, the Department sent Petitioner a FAST Mandatory Notice (DHS-1536) addressed to her mailing address of record, and this notice instructed Petitioner to complete the Family Automated Screening Tool (FAST) within 30 days of the notice. Exhibit A, pp 11-12.
3. On September 14, 2022, the Department sent Petitioner a Notice of Noncompliance (DHS-2444) informing her that she had been found to be noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program for failing to complete the FAST and that he would be disqualified from the Family Independence Program (FIP) for six months. Exhibit A, pp 19-21.

4. A triage meeting was held on September 22, 2022, where Petitioner was given the opportunity to establish good cause for failing to complete the FAST and Petitioner did not participate in this meeting. Exhibit A, p 19.
5. On September 14, 2022, the Department notified Petitioner that she was not eligible for Family Independence Program (FIP) benefits effective October 1, 2022. Exhibit A, pp 14-18.
6. On October 18, 2022, the Department received Petitioner's request for a hearing protesting the sanctions on her Family Independence Program (FIP) benefits. Exhibit A, pp 3-4.

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).

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 (October 1, 2022).

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.

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 failing or refusing to complete a Family Automated Screening Tool (FAST) without good cause, as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process. BEM 233A.

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.

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.

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.

A Work Eligible Individual (WEI) and non-WEIs, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).

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.

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).

On ■■■ ■■■ 2022, the Department received Petitioner's application for FIP benefits, and it was not disputed during the hearing that was found to be eligible for cash assistance, and that she began receiving cash assistance.

On August 15, 2022, the Department instructed Petitioner to complete the Family Automated Screening Tool (FAST). The hearing record supports a finding that this notice was address to Petitioner's mailing address of record, which was the same address that Petitioner reported on her ■■■ ■■■ 2022, application for assistance.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the Department presented substantial evidence that the notice for Petitioner to complete the FAST was mailed to her mailing address of record. Petitioner admits to receiving the notice much later, and she failed to present evidence to rebut the presumption of its timely receipt. Petitioner failed to establish that it was beyond her control to complete the FAST in a timely manner.

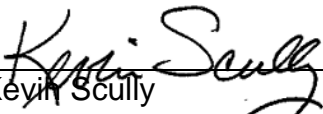
On September 14, 2022, the Department notified Petitioner that she was considered to be noncompliant with the PATH program for her failure to complete the FAST. Petitioner does not dispute that she did not complete the FAST. A triage meeting was scheduled for September 22, 2022, where Petitioner was given the opportunity to establish good cause for her failure to complete the FAST. Petitioner did not attend the triage meeting and no evidence was presented on the record that she attempted to reschedule the triage meeting. Based on the best information available, the Department determined that Petitioner did not have good cause for failing to complete the FAST. Petitioner's FIP benefits were sanctioned for six months, and she was ineligible for ongoing cash assistance as of October 1, 2022.

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 sanctioned Petitioner's Family Independence Program (FIP) benefits for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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

