



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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Date Mailed: February 17, 2023
MOAHR Docket No.: 23-000095
Agency No.: ██████████
Petitioner: ██████████

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 February 7, 2023, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by April Sprague, Hearing Facilitator. Christopher Card, Employment Training Coordinator, appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-83.

ISSUE

Did the Department properly close and sanction Petitioner's Family Independence (FIP) benefits for failing to participate with Partnership Accountability Training Hope (PATH) 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 had a prior PATH noncompliance sanction. (Exhibit A, pp. 40-45 and 82)
2. On ██████████ 2022, Petitioner applied for FIP for herself and her children. (Exhibit A, pp. 8-14)
3. On or about June 2, 2022, the Department received a Medical Needs-PATH verifying that Petitioner was unable to work for 12 weeks, and the limitation was expected to last more than 90 days. (Exhibit A, pp. 3 and 22-24)

4. On or about June 8, 2022, a deferral from employment services was entered for Petitioner until September 30, 2022. (Exhibit A, pp. 3 and 23-24)
5. On June 8, 2022, a Notice of Case Action was issued approving FIP effective June 16, 2022. (Exhibit A, pp. 25-28)
6. On September 24, 2022, a PATH Appointment notice was issued to Petitioner for a PATH appointment scheduled for October 5, 2022. (Exhibit A, pp. 29-30)
7. On October 17, 2022, a Notice of Case Action was issued to Petitioner stating FIP would close effective November 1, 2022, based on a failure to participate in employment and/or self-sufficiency-related activities, quitting a job, being fired, or reducing hours of employment without good cause. It was stated that FIP must remain closed for at least six months. (Exhibit A, pp. 31-36)
8. On October 17, 2022, a Notice of Noncompliance was issued to Petitioner based on no initial contact with the Michigan Works Agency (MWA). It was marked that this was the second instance of non-compliance, therefore, the FIP case would close for a minimum of six months. A telephone meeting was scheduled for October 26, 2022. (Exhibit A, pp. 37-39)
9. On October 25, 2022, the triage meeting was completed and good cause was found. (Exhibit A, p. 47)
10. On October 25, 2022, a Verification Checklist and Medical Determination Verification Checklist were issued to Petitioner requesting disability verifications by a November 4, 2022 due date. (Exhibit A, pp. 48-65)
11. Petitioner did not return the disability verification and the deferral was ended. (Exhibit A, pp. 66-67)
12. On November 15, 2022, a Notice of Case Action was issued to Petitioner stating FIP was approved effective November 1, 2022. (Exhibit A, pp. 68-70)
13. On November 15, 2022, a PATH Appointment Notice was issued to Petitioner for a PATH appointment scheduled for November 23, 2022. (Exhibit A, pp. 71-72)
14. Petitioner did not attend the PATH appointment. (Exhibit A, p. 83)
15. On December 5, 2022, a Notice of Case Action was issued to Petitioner stating FIP would close effective January 1, 2023, based on a failure to participate in employment and/or self-sufficiency-related activities, quitting a job, being fired, or reducing hours of employment without good cause. It was stated that FIP must remain closed for at least six months. (Exhibit A, pp. 73-75)
16. On December 5, 2022, a Notice of Noncompliance was issued to Petitioner based on no initial contact with the MWA. It was marked that this was the second instance of non-compliance, therefore, the FIP case would close for a minimum of

six months. A telephone meeting was scheduled for December 14, 2022. (Exhibit A, pp. 77-79)

17. On December 14, 2022, the Department was unable to reach Petitioner for the triage meeting. No good cause was found for the noncompliance. (Exhibit A, pp. 81)
18. On January 3, 2023, Petitioner filed a hearing request contesting the FIP determination. (Exhibit A, p. 6)

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, October 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 failing to or refusing to appear and participate with PATH or other employment service provider. 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. 4-7
(portions of list omitted by ALJ).

In this case, the Department requested the verifications needed for Disability Determination Services (DDS) to determine whether a long-term disability was established. Petitioner did not provide the requested information; therefore the deferral was ended and Petitioner was referred to PATH.

On November 15, 2022, a PATH Appointment Notice was issued to Petitioner for a PATH appointment scheduled for November 23, 2022. (Exhibit A, pp. 71-72). Petitioner

did not attend the PATH appointment. (Exhibit A, p. 83). Accordingly, on December 5, 2022, a Notice of Case Action was issued to Petitioner stating FIP would close effective January 1, 2023, based on a failure to participate in employment and/or self-sufficiency-related activities, quitting a job, being fired, or reducing hours of employment without good cause. It was stated that FIP must remain closed for at least six months. (Exhibit A, pp. 73-75). On December 5, 2022, a Notice of Noncompliance was also issued to Petitioner based on no initial contact with the MWA. It was marked that this was the second instance of non-compliance, therefore, the FIP case would close for a minimum of six months. A telephone meeting was scheduled for December 14, 2022. (Exhibit A, pp. 77-79).

On December 14, 2022, the Department was unable to reach Petitioner for the triage meeting. No good cause was found for the noncompliance. (Exhibit A, pp. 81).

Petitioner testified that she called the Department and the Employment Training Coordinator multiple times and sent an email for him to contact her. When they would call her back, she was in physical therapy and could not answer. Petitioner explained that while there was a due date that expired, her doctor said he would not fill out any more paperwork. Petitioner's doctor was sending her to a therapy place to get testing done. That was on December 5, 2022. It then took two weeks for them to get the paperwork all cleared up. Petitioner could not get it until the 20th from her doctor. The therapy place would not give the paperwork to the client, only to the referring doctor. Petitioner asserted that when paperwork is sent to her, she never gets it on time. Then she only has a day or two to get it turned back in. Petitioner does not have transportation and does not leave her house unless it is for medical appointments. For those, her medical insurance assists with transportation. (Petitioner Testimony). The Employment Training Coordinator confirmed that Petitioner would leave messages and he would attempt to contact her back, even leaving voicemails. They waited as long as they could, but when they did not hear back from Petitioner they had no choice but to proceed. (Employment Training Coordinator Testimony).

Overall, Petitioner has not established good cause for failing to participate with PATH. Petitioner was given an opportunity to provide the needed verifications for DDS to determine whether a long-term disability was established. The testimony of Petitioner and the Employment Training Coordinator indicate they each made multiple attempts to contact each other, but ultimately were not successful. Accordingly, Petitioner was referred to PATH and given notice of the PATH appointment scheduled for November 23, 2022. (Exhibit A, pp. 71-72). Petitioner did not attend the PATH appointment. Petitioner has not established good cause for failing to attend that appointment.

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 and sanctioned Petitioner's FIP case based on failing to participate with PATH.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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 :

DHHS

Janice Collins
Genesee County DHHS Union St District Office
125 E. Union St 7th Floor
Flint, MI 48502

**MDHHS-Genesee-UnionSt-
Hearings@michigan.gov**

Interested Parties

BSC2
B Sanborn
G Vail
D Sweeney
MOAHR

Via First Class Mail :

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]