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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: March 23, 2023  
MOAHR Docket No.: 23-000721  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 March 16, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Olivette Gordon, Family Independence Manager; Gwendolyn Manning, Family Independence Specialist; and Patrice Taylor, Triage Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) case due to a failure to participate in employment and/or self-sufficiency related activities without good cause?

### **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 an ongoing recipient of FIP benefits.
2. As a condition of FIP eligibility, Petitioner was required to participate in the Partnership. Accountability. Training. Hope. (PATH) program. Petitioner was initially participating by completing job search activities, and later transitioned to a vocational training program.
3. The Department asserted that Petitioner arrived late to more than one day of the program and resigned from the vocational skills program after two weeks prior to completion.

4. On or around January 24, 2023, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on January 31, 2023, to discuss whether she had good cause for her alleged noncompliance and failure to participate in PATH as required. (Exhibit A, pp. 4-5)
5. On or around January 24, 2023, the Department sent Petitioner a Notice of Case Action advising her that effective March 1, 2023, her FIP case would be closed for at least three months because she failed to participate in employment and/or self-sufficiency-related activities without good cause. (Exhibit A, pp. 7-11)
6. On January 31, 2023, a triage was held with Petitioner, at the conclusion of which, the Department determined that Petitioner did not have good cause for her noncompliance. (Exhibit A, pp. 12-14)
7. Petitioner's FIP case closed effective March 1, 2023.
8. On or around February 6, 2023, Petitioner requested a hearing disputing the closure of her FIP case. (Exhibit A, p.15)

### **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.

As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. BEM 230A (January 2022), pp. 1-2; BEM 233A (January 2022), pp. 1-2. The WEI can be considered noncompliant for doing any of the following (including other reasons) without good cause: failing or refusing to participate in PATH or other employment service providers as required; failing to provide legitimate documentation of work participation; failure or refusing to appear for a scheduled appointment or meeting related to assigned activities; stating orally or in writing a definite intent not to comply with program requirements; failing or refusing to participate in employment and/or self-sufficiency related activities or to participate in a require activity; or failing or refusing to accept a job referral, complete a job application or appear for a job interview. BEM 233A, pp 1-4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that is based on factors that are beyond the control of the noncompliant person. Claims of good cause must be verified and documented. The

various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-7.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities or refuses suitable employment, must be penalized. BEM 230A, pp. 1-2. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include: the name of the noncompliant individual; the date(s) of the noncompliance; the reason the client was determined to be noncompliant; the penalty duration; and the scheduled triage appointment. BEM 233A, pp. 10-12. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (April 2019). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 9-12.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 9-12. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A, pp. 12-13. Good cause is determined using the best information available during the triage and prior to the negative action date. If the client does not provide a good cause reason for the noncompliance, the Department will determine good cause based on the best information available. BEM 233A, p. 10-13. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

In this case, the Department and PATH program representatives testified that while Petitioner was initially meeting her work participation requirements by completing job search, Petitioner requested to be enrolled in a vocational program that would allow her to receive a commercial driver's license upon completion. The PATH program representative testified that after two weeks, Petitioner indicated she was not going to be able to complete her assignments on time. Petitioner was instructed to ask for an extension from the training program but instead, resigned. The Department and PATH representative testified that at some point, Petitioner asserted that her mental health was a barrier to her participation. As a result, she was provided with a referral for mental health services through the Detroit Wayne Mental Health Authority. The Department asserted that Petitioner submitted no information confirming that she followed up with mental health services. No evidence was presented that a medical needs form was submitted. A triage was held on January 31, 2023, and although Petitioner attended the triage meeting, the Department and the PATH representative determined that she did not have good cause for her noncompliance and her failure to continue participating in the vocational program that she was enrolled in. The Department initiated the closure of Petitioner's FIP case effective March 1, 2023, imposing a three-month sanction for Petitioner's first occurrence of noncompliance without good cause.

At the hearing, Petitioner disputed that she was noncompliant with work-related activities, but did not dispute that she failed to continue participating in the vocational training program to receive her commercial driver's license. Petitioner disputed that she was two hours late to her training sessions and stated she was 45 minutes late because of delays with [REDACTED]. Petitioner asserted that she couldn't complete the requirements of the vocational program because her son was sick on more than one occasion, first with the flu, and later, hand, foot, mouth disease. Petitioner testified that she missed days due to her son's illness and when she returned, she was far behind and unable to finish her assignments. Petitioner asserted that she contacted the vocational program and requested an extension, which was granted for five days. Petitioner testified that she initially missed three days of the program and was given a five-day extension. Petitioner testified that she was still unable to complete her assignments on time due to her son's illness. Petitioner confirmed that she did not ask for a second extension, and instead resigned from the program. Petitioner argued that she requested to resign from her current winter enrollment in the program and return to the program for the spring session. Petitioner asserted that she was told by the instructor that she could not resign from the program and start over again in the spring but would be allowed to continue in her current enrollment and participation in the program, even if her participation lasted until springtime. Petitioner decided that she could not complete the program and resigned.

Petitioner also testified that she participated in mental health treatment from January 2, 2023, to January 27, 2023, but no evidence was presented that she provided the Department with a medical needs form to have this barrier addressed by the Department. There was also an assertion that Petitioner identified a transportation barrier; however, the evidence suggested that Petitioner was provided with transportation assistance through [REDACTED]. Petitioner asserted that she had documents to verify her son's illnesses, as well as her letter of resignation from the vocational program and requested that they be admitted as evidence on her behalf. The documents identified by Petitioner were marked and admitted as Exhibit 1; however, Petitioner failed to submit the documents after the hearing, despite being provided with the fax number and email address for submission. Thus, Exhibit 1 is stricken from the record.

Petitioner's testimony was conflicting and inconsistent. Despite Petitioner's explanations, Petitioner did not establish that prior to the triage and negative action date, she had good cause for failure to continue participating in the vocational commercial driver's license training program or otherwise sufficiently participate in PATH as required. Thus, the Department properly determined that she was noncompliant with work-related activities without good cause, and closed Petitioner's FIP case effective March 1, 2023.

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 imposed a three month sanction effective March 1, 2023.

**DECISION AND ORDER**

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

ZB/ml

  
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**Zainab A. Baydoun**  
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**  
Richard Latimore  
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**Interested Parties**

BSC4  
B Sanborn  
D Sweeney  
G Vail  
MOAHR

**Via First Class Mail :**

**Petitioner**

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