



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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[REDACTED] MI [REDACTED]

Date Mailed: May 26, 2023
MOAHR Docket No.: 23-001759
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 April 26, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Stephanie Wallingford, Family Independence Specialist, and Tracy Vallelunga, PATH Liaison Roseville MIWorks Agency.

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 by completing job search activities, self-sufficiency activities, and resume writing, among other tasks.
3. On or around January 8, 2023, Petitioner was assigned to the Roseville Service Center to complete her PATH requirements and shortly thereafter, participated in orientation. (Exhibit A, pp. 11-15)
4. The PATH Liaison asserted that on January 18, 2023, Petitioner was instructed to complete various assignments and submit them by January 30, 2023. The

Department and the PATH Liaison asserted that because Petitioner failed to submit any assignments by the January 30, 2023, due date, she was determined to be noncompliant with work related activities. (Exhibit A, pp. 11-16)

5. On or around January 31, 2023, the Department sent Petitioner a Notice of Noncompliance instructing her to attend a triage meeting on February 9, 2023, to discuss whether she had good cause for her alleged noncompliance and failure to participate in PATH as required. (Exhibit A, pp. 8-10)
6. The Department testified that on or around January 31, 2023, it sent Petitioner a Notice of Case Action advising her that effective March 1, 2023, her FIP case would be closed for at least six months because for a second time, she failed to participate in employment and/or self-sufficiency-related activities without good cause. The Notice of Case Action was not presented for review during the hearing.
7. On February 9, 2023, a triage was held with Petitioner, during which Petitioner asserted that she was unable to complete some of her required assignments because she had been not feeling well. Petitioner informed the Department that she did not have a medical verification that she was unable to work but stated she can obtain a letter from her doctor. The Department instructed Petitioner to submit verification of her good cause. (Exhibit A, p.16)
8. On or around February 9, 2023, Petitioner submitted a letter from her doctor indicating that Petitioner had been seen and treated at his clinic on [REDACTED], 2023. The letter further indicates that Petitioner has been feeling unwell for quite some time and can return to work on February 13, 2023, but this is variable and based on how she may heal. The doctor indicated that if extra time is needed, Petitioner will have to ask for another letter. (Exhibit A, p. 17)
9. The Department determined that Petitioner did not have good cause for her noncompliance, as the letter she submitted from her doctor did not cover the time period of her alleged noncompliance in January 2023.
10. Petitioner's FIP case closed effective March 1, 2023, and the Department applied a six-month sanction.
11. On or around March 3, 2023, Petitioner submitted another letter from her doctor indicating that she was seen in the clinic on [REDACTED] 2023 and [REDACTED], 2023. The doctor indicated that Petitioner was excused from work from January 21, 2023, through January 30, 2023 due to medical reasons. (Exhibit A, p.18)
12. On or around March 27, 2023, Petitioner requested a hearing disputing the closure of her FIP case. (Exhibit A, p.5-6)

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.

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 222), 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; failing 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 required 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 Liaison initially asserted that because Petitioner failed to submit any of her required assignments by the January 30, 2023, due date, she was determined to be noncompliant with work related activities. (Exhibit A, pp. 11-16). A triage was held on February 9, 2023, and although Petitioner attended the triage meeting, and later that day, submitted the first letter from her doctor dated February 9, 2023, the Department and the PATH representative determined that she did not have good cause for her noncompliance and her failure to submit all her assignments. The Department concluded Petitioner did not have good cause for her noncompliance, as the letter she submitted from her doctor did not cover the time period of her alleged noncompliance in January 2023. The Department initiated the closure of Petitioner's FIP case effective March 1, 2023, imposing a six-month sanction for Petitioner's second occurrence of noncompliance without good cause. The Department asserted that Petitioner served a three-month sanction for a first noncompliance without good cause from August 1, 2015, to October 31, 2015.

Petitioner credibly testified that she has been ill and suffering from various medical issues and has been treated by different doctors. Petitioner testified that by the time she was able to get verification from her doctor, it was after the triage date. The Department representative testified that if Petitioner had timely submitted the second letter from her doctor that was dated March 3, 2023, it would have been sufficient to meet the good cause criteria, as it shows Petitioner was under medical care. However, the PATH Liaison testified that the March 3, 2023, letter from Petitioner's doctor does not excuse Petitioner from her work requirements for the week of January 15, 2023. The PATH Liaison testified that Petitioner could have completed some assignments for the week of January 15, 2023, but the letter does not indicate that Petitioner was ill at that time. It is noted that the PATH Liaison initially testified that Petitioner failed to submit any assignments since her orientation was completed and that nothing had been turned in by the January 30, 2023, due date. Later in the hearing, however, the PATH Liaison testified that Petitioner did submit some assignments for the week of January 8, 2023, and that she was given credit for 17/26 hours. For the week of January 15, 2023, Petitioner submitted some assignments and was given credit for 4/26 hours.

Upon review, Petitioner presented sufficient evidence to establish that she had good cause for her failure to complete and submit all required assignments due to illness and based on the letters submitted from her doctors indicating Petitioner had restrictions due to medical reasons and was unable to work.

Based on the evidence presented, the Department failed to establish that Petitioner was noncompliant with employment related activities without good cause. As such, 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 did not act in accordance with Department policy when it closed Petitioner's FIP case and imposed a six month sanction.


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. Remove the six month employment sanction/penalty imposed on Petitioner's FIP case;
2. Reinstate Petitioner's FIP case effective March 1, 2023;
3. Issue FIP supplements to Petitioner for any benefits she was entitled to receive but did not from March 1, 2023, ongoing, in accordance with Department policy; and
4. Notify Petitioner in writing of its decision.

ZB/ml



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
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
MDHHS-Macomb-20-Hearings@michigan.gov

Interested Parties

BSC4
B Sanborn
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]