



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: June 30, 2023  
MOAHR Docket No.: 23-002018  
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 commenced on June 1, 2023 and was completed on June 20, 2022. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator, and Karen Sheerin, Case Manager. Christina Wyrick, PATH Representative, appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-19, and supplemental documentation was admitted as Exhibit B, pp. 1-41, and Exhibit C, pp. 1-2. Petitioner's screen shots of text messages were admitted as Exhibit 1.

**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 was a recipient of FIP benefits and a mandatory PATH participant.
2. Petitioner has two prior non-compliances with PATH. (Exhibit A, pp. 8-14)

3. On February 2, 2023, Petitioner explained to the Career Coach that she was taken off work due to twisting her ankle. The doctor took Petitioner off work for three days based on the medical documentation received. (Exhibit B, p. 4)
4. On February 2, 2023, Petitioner texted the Career Coach three doctor notes, with return to work dates of January 27, 2023, January 31, 2023, and February 2, 2023. (Exhibit 1)
5. On February 8, 2023, the Career Coach contacted Petitioner to see if she was back to work. The Career Coach was waiting to hear from Petitioner to see how she was doing and if employment resumed. (Exhibit B, p. 4)
6. On February 8, 2023, Petitioner texted the Career Coach reporting she was not back on the schedule yet. (Exhibit 1)
7. On February 8, 2023, Petitioner texted her employer because she had been removed from the schedule. The employer explained that they had been waiting to hear from Petitioner that she was well enough to start back and had not heard from her until now. The employer noted they worked with her for three weeks, and the doctors' notes gave return days but Petitioner was not recovered enough to come back yet. (Exhibit 1)
8. On February 9, 2023 the Business Services Representative contacted Petitioner's employer. Petitioner had last worked January 27, 2023. Petitioner told them she could not work due to being in the hospital for the flu or a virus. Petitioner also said she fell at one of the homecare agency's client's homes and sprained her ankle. The employer did not schedule Petitioner that week due to not knowing if she was able to return to work or had been released by her doctor. When another employee called off for the day, they tried reaching Petitioner to ask her to work but Petitioner would not answer her phone. Petitioner forwarded a text to the employer that she said was from the doctor. (Exhibit B, p. 3)
9. On February 9, 2023, the Career Coach spoke with Petitioner who explained that she had three different doctor notes. One was from when she fell and hurt her ankle and the other two were from her upper respiratory infection. The Career Coach reminded Petitioner that if hours stop in one activity, she needed to make up the hours in another activity. Petitioner would need 10 hours of job search for the week of January 29, 2023 and 25 hours of job search for the week of February 5, 2023. The hours were due to be submitted by noon on February 16, 2023 or Petitioner would be placed in triage. (Exhibit B, p. 3)
10. On February 13, 2023, the Career Coach attempted to contact Petitioner and left a message asking if she was back on the work schedule. (Exhibit B, p. 3)
11. On February 13, 2023, Petitioner texted her employer and asked if it would be best to wait until the beginning of the month for her to be back to work due to court appointments and doctor appointments. Petitioner also indicated limitations with

wanting to stay within the Albion city limits due to her car overheating, the hours she is available due to her child's school hours, and not wanting to return to a particular client's home because the notes showed the client had mentioned seeing people. Petitioner indicated the Career Coach was "steady bugging" her about what is going on so Petitioner just needed to clear up some stuff so the Career Coach could "fall back". (Exhibit 1)

12. On February 14, 2023, the Career Coach attempted to contact Petitioner and left a message explaining she would be required to submit 25 hours of job search until she was added back to the schedule. Petitioner would also need to advise the career Coach when she returns to work. (Exhibit B, p. 3)
13. On February 14, 2023, Petitioner texted the Career Coach indicating she was not back on the schedule yet and she was waiting for the employer to let her know when. (Exhibit 1)
14. On February 16, 2023, Petitioner submitted logs for 14 hours of job search the week of January 29, 2023 and 26 hours for the week of February 5, 2023. (Exhibit B, p. 3)
15. On February 21, 2023, the Business Services Representative contacted Petitioner's employer and found out that Petitioner had not worked since the last verification. The employer indicated that when Petitioner called to find out if she was on the schedule, Petitioner stated it would be best to wait to put her back on until after March 1, 2023 due to appointments scheduled. The employer did not plan to put Petitioner back on the schedule because she is not reliable. (Exhibit A, p. 6; Exhibit B, pp. 2-3)
16. On February 21, 2023, PATH assigned Petitioner to triage based on refusing hours of employment. Petitioner was sick for two days; the Career Coach contacted her and Petitioner stated she was not on the schedule. The Career Coach asked Petitioner two times if she was back on the schedule and received no response. The Career Coach reached out to Business Services and the employer stated Petitioner said to put her back on the schedule after March 1, 2023. Employer will no longer be giving her hours. Petitioner lost employment. (Exhibit A, p. 6; Exhibit B, p. 2)
17. On February 21, 2023, the Business Services Representative received a text from Petitioner's employer. Petitioner had told a scheduler that she was pacifying her Career Coach to get her off her back. (Exhibit B, p. 2)
18. On February 27, 2023, a Notice of Noncompliance (DHS-2444) was issued to Petitioner based on refusing employment. Notice was provided of a triage appointment scheduled for March 8, 2023 at 1:15 p.m. (Exhibit A, pp. 3-5)
19. On February 27, 2023, a Notice of Case Action was issued to Petitioner, in part, stating the FIP case would close effective April 1, 2023, due to an alleged violation

of the PATH program requirements. The notice indicated the group was no longer eligible for FIP as this was at least the third time Petitioner or a group member was noncompliant. (Exhibit A, pp. 15-19)

20. On March 8, 2023, the triage meeting was not held because Petitioner did not answer when the Department attempted to contact her. Subsequently, Petitioner was present at the Department office and indicated she would be available all day on March 9, 2023. (Exhibit A, p. 6; Exhibit B, pp. 2 and 39)
21. On March 9, 2023, and another attempt was made to conduct the triage meeting. The triage meeting was held without Petitioner, no good cause was found for Petitioner's non-compliance. (Exhibit A, p. 6; Exhibit B, pp. 2 and 39)
22. On April 3, 2023, Petitioner filed a hearing request contesting the Department's action. (Exhibit A, unnumbered page)

### **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 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.

BEM 233A, p. 4

Good cause includes: being unfit for the job or activity as shown by medical documentation; a debilitating illness or injury; and no transportation. BEM 233A, pp. 5-6.

In this case, Petitioner was a recipient of FIP benefits and a mandatory PATH participant. On February 2, 2023, Petitioner explained to the Career Coach that she was taken off work due to twisting her ankle. The doctor took Petitioner off work for three days based on the medical documentation received. (Exhibit B, p. 4). It is noted that on February 2, 2022, Petitioner texted the Career Coach three doctor notes, with return to work dates of January 27, 2023, January 31, 2023, and February 2, 2023. (Exhibit 1).

On February 8, 2023, the Career Coach contacted Petitioner to see if she was back to work. The Career Coach was waiting to hear from Petitioner to see how she was doing and if employment resumed. (Exhibit B, p. 4). On February 8, 2023, Petitioner texted the Career Coach reporting she was not back on the schedule yet. (Exhibit 1). On February 8, 2023, Petitioner texted her employer because she had been removed from the schedule. The employer explained that they had been waiting to hear from Petitioner that she was well enough to start back and had not heard from her until now. The employer noted they worked with her for three weeks, and the doctors' notes gave return days but Petitioner was not recovered enough to come back yet. (Exhibit 1).

On February 9, 2023 the Business Services Representative contacted Petitioner's employer. Petitioner had last worked January 27, 2023. Petitioner told them she could not work due to being in the hospital for the flu or a virus. Petitioner also said she fell at

one of the homecare agency's client's homes and sprained her ankle. The employer did not schedule Petitioner that week due to not knowing if she was able to return to work or had been released by her doctor. When another employee called off for the day, they tried reaching Petitioner to ask her to work but Petitioner would not answer her phone. Petitioner forwarded a text to the employer that she said was from the doctor. (Exhibit B, p. 3). On February 9, 2023, the Career Coach spoke with Petitioner who explained that she had three different doctor notes. One was from when she fell and hurt her ankle and the other two were from her upper respiratory infection. The Career Coach reminded Petitioner that if hours stop in one activity, she needed to make up the hours in another activity. Petitioner would need 10 hours of job search for the week of January 29, 2023 and 25 hours of job search for the week of February 5, 2023. The hours were due to be submitted by noon on February 16, 2023 or Petitioner would be placed in triage. (Exhibit B, p. 3).

On February 13, 2023, the Career Coach attempted to contact Petitioner and left a message asking if she was back on the work schedule. (Exhibit B, p. 3). On February 13, 2023, Petitioner texted her employer and asked if it would be best to wait until the beginning of the month for her to be back to work due to court appointments and doctor appointments. Petitioner also indicated limitations with wanting to stay within the Albion city limits due to her car overheating, the hours she is available due to her child's school hours, and not wanting to return to a particular client's home because the notes showed the client had mentioned seeing people. Petitioner indicated the Career Coach was "steady bugging" her about what is going on so Petitioner just needed to clear up some stuff so the Career Coach could "fall back". (Exhibit 1).

On February 14, 2023, the Career Coach attempted to contact Petitioner and left a message explaining she would be required to submit 25 hours of job search until she was added back to the schedule. Petitioner would also need to advise the career Coach when she returns to work. (Exhibit B, p. 3). On February 14, 2023, Petitioner texted the Career Coach indicating she was not back on the schedule yet and she was waiting for the employer to let her know when. (Exhibit 1).

On February 16, 2023, Petitioner submitted logs for 14 hours of job search the week of January 29, 2023 and 26 hours for the week of February 5, 2023. (Exhibit B, p. 3).

On February 21, 2023, the Business Services Representative contacted Petitioner's employer and found out that Petitioner had not worked since the last verification. The employer indicated that when Petitioner called to find out if she was on the schedule, Petitioner stated it would be best to wait to put her back on until after March 1, 2023 due to appointments scheduled. The employer did not plan to put Petitioner back on the schedule because she is not reliable. (Exhibit A, p. 6; Exhibit B, pp. 2-3).

On February 21, 2023, PATH assigned Petitioner to triage based on refusing hours of employment. Petitioner was sick for two days; the Career Coach contacted her and Petitioner stated she was not on the schedule. The Career Coach asked Petitioner two times if she was back on the schedule and received no response. The Career Coach reached out to Business Services and the employer stated Petitioner said to put her

back on the schedule after March 1, 2023. Employer will no longer be giving her hours. Petitioner lost employment. (Exhibit A, p. 6; Exhibit B, p. 2). On February 21, 2023, the Business Services Representative received a text from Petitioner's employer. Petitioner had told a scheduler that she was pacifying her Career Coach to get her off her back. (Exhibit B, p. 2).

Petitioner explained that she was asking her employer how to get back on the schedule and only asked if it would be best to wait to put her back on the schedule until March. Petitioner asserted that she was not refusing to work before March. Petitioner noted that she had documentation from doctors when she was initially taken off the schedule. Petitioner found out she no longer had a job through the triage, the employer never let her know. Petitioner asserted she never refused work hours. (Petitioner Testimony).

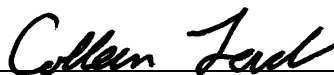
The screen shots Petitioner submitted show three doctor notes, with return to work dates of January 27, 2023, January 31, 2023, and February 2, 2023. The February 8, 2023 screen shots show the employer was still waiting for Petitioner to let them know she was ready to return to work to put her back on the schedule. Petitioner did not contact the employer again until February 13, 2023, when she provided scheduling limitations and indicated it may be best to wait until March to put her back on the schedule. (Exhibit 1). Good cause cannot be found for Petitioner's noncompliance after February 2, 2023 because Petitioner did not have documentation from her doctor extending the time she was unable to work and Petitioner had not let her employer know that she was ready to return to work. Rather, Petitioner suggested that it may be best to wait until March 1, 2023 to put her back on the schedule.

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

  
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**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**  
Kristina Etheridge  
Calhoun County DHHS  
190 East Michigan  
Battle Creek, MI 49016  
**MDHHS-Calhoun-Hearings@michigan.gov**

**Interested Parties**

BSC3  
B Sanborn  
D Sweeney  
G Vail  
MOAHR

**Via First Class Mail:**

**Petitioner**

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