



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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**APT 2 224 NEWBERRY AVE**  
**NEWBERRY, MI 49868**

Date Mailed: July 11, 2023  
MOAHR Docket No.: 23-002448  
Agency No.: 130680247  
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 July 3, 2023, from Lansing, Michigan. The Petitioner was represented by Kenneth Penokie, Attorney. ██████████ the Petitioner, appeared and testified. The Department of Health and Human Services (Department) was represented by Zachary Smitt, Assistant Attorney General. Danielle Shanley, Family Independence Specialist (FIS) appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-38, and a copy of the medical records reviewed by the Department were admitted as Exhibit B, pp. 1-542.

### **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 has a prior PATH noncompliance sanction. (FIS and Petitioner Testimony)
2. On March 23, 2023, the Medical Review Team/Disability Determination Services (MRT/DDS) determined that Petitioner was work ready with limitations for the FIP program, specifically light work with limitations including simple, routine tasks in a

low stress setting requiring no more than occasional contact with others. (Exhibit A, pp. 22-33)

3. On March 25, 2023, a PATH appointment notice was issued to Petitioner with a PATH appointment on April 4, 2023 at 9:00 am at the Luce County Michigan Works. (Exhibit A, pp. 17-18)
4. On April 13, 2023, the Department was notified by Michigan Works that Petitioner failed to attend her orientation appointment. (FIS Testimony)
5. On April 13, 2023, a Notice of Case Action was issued to Petitioner closing FIP effective May 1, 2023 based on failing to attend the orientation with Michigan Works. The notice indicated the group would not be eligible for FIP for six months as this was the second time Petitioner or a group member was noncompliant (Exhibit A, pp. 6-12)
6. On April 26, 2023, Petitioner filed a hearing request contesting the FIP closure. (Exhibit A, p. 5)

### **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 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.

BEM 233A, p. 4

Good cause includes: being unfit for the job or activity as shown by medical documentation; a debilitating illness or injury; The MDHHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability; and no transportation. BEM 233A, pp. 5-6.

In this case, Petitioner was a recipient of FIP benefits and a mandatory PATH participant.

On March 23, 2023, the MRT/DDS determined that Petitioner was work ready with limitations for the FIP program, specifically light work with limitations including simple, routine tasks in a low stress setting requiring no more than occasional contact with others. (Exhibit A, pp. 22-33).

On March 25, 2023, a PATH Appointment Notice was issued to Petitioner with a PATH appointment on April 4, 2023 at 9:00 am at the Luce County Michigan Works. The Notice also advised that the application would be denied if Petitioner did not attend PATH and complete the 10-day application eligibility period and of the potential sanction periods. Further, if Petitioner could not keep that appointment date, Petitioner was to call the Department specialist before the appointment if she was going to miss it; Petitioner was to reschedule the appointment as soon as possible; and if she did not appear within 15 days of the notice date, FIP would be denied. (Exhibit A, pp. 17-18).

On April 13, 2023, the Department was notified by Michigan Works that Petitioner failed to attend her orientation appointment. (FIS Testimony). Accordingly, on April 13, 2023, a Notice of Case Action was issued to Petitioner closing FIP effective May 1, 2023 based on failing to attend the orientation with Michigan Works. The notice indicated the group would not be eligible for FIP for six months as this was the second time Petitioner or a group member was noncompliant (Exhibit A, pp. 6-12).

Petitioner asserted that she believed the PATH Appointment Notice was sent to her by mistake. Petitioner previously got things in the mail to go to PATH and was told to disregard them as she was waiting for a disability determination. Petitioner stated she called the Department when she received the March 25, 2023 PATH Appointment Notice and was told she did not have to go. Petitioner did not recall the date of when she called or who she spoke to. Petitioner also noted that she would have been unable to walk to the appointment and did not have money to pay for transportation. Further, Petitioner indicated her medical condition would prevent her from being able to work or participate in PATH. Petitioner noted that the medical records the MRT/DDS reviewed for the PATH deferral determination contained many errors. (Petitioner Testimony)

As stated during the hearing, there is no jurisdiction for this Administrative Law Judge to review the MRT/DDS deferral determination. Rather, jurisdiction is limited to reviewing the Department's determination to close and sanction the Petitioner's FIP case for noncompliance with PATH program requirements. Regarding the transportation difficulties, the PATH Appointment Notice advised Petitioner that assistance with transportation was available if needed. (Exhibit A, p. 18).

Additionally, the case record does not support Petitioner's testimony that she called to speak with a specialist about the PATH Appointment Notice. The FIS testified that there was no record of Petitioner calling about the PATH Appointment Notice. If Petitioner had called the local office Department number about a case specific question, the clerical staff should have referred Petitioner to the 844 client connect number as they are unable to assist with case specific questions. Further, the FIS checked with the clerical staff that work in the office, who reported Petitioner never called them. The only record of Petitioner calling the client connect number and speaking to a caseworker was an April 18, 2023 call about the noncompliance letter. (FIS Testimony).

Good cause cannot be found for Petitioner's noncompliance as the case record does not support that Petitioner called the Department to speak with the specialist about the PATH appointment notice. If Petitioner needed an accommodation for the PATH appointment or to reschedule it, arrangements could have been made if Petitioner had called the specialist. As stated on the PATH Appointment Notice, there was a specific timeframe to attend PATH and complete the 10-day application orientation period. Because Petitioner did not attend PATH and complete the 10-day application orientation period, the closure of her FIP case and sanction must be upheld.

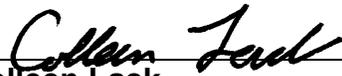
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

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:**

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**Interested Parties**

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