



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: August 25, 2023  
MOAHR Docket No.: 23-004108  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 August 15, 2023, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator. Mashana Chunev, Eligibility Specialist, and Michael Heck, PATH Worker, appeared as witnesses for the Department.

During the Hearing Proceeding, the Department's hearing Summary packet was admitted as Exhibit A, pp. 1-54. The hearing record was left open through the end of the day on August 15, 2023, for the parties to provide additional documentation regarding what forms/verifications Petitioner submitted on what day(s). The Department provided additional documentation, which has been admitted as Exhibit B, pp. 1-3. No additional documentation was received from Petitioner.

**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. On March 22, 2023, the Department received a DHS-54-E Medical Needs form indicating Petitioner has a disability lasting longer than 90 days and Petitioner was deferred from participation with PATH pending the disability determination. (Exhibit A, pp. 13 and 41).
3. On April 17, 2023, a Notice to Apply was issued to Petitioner stating she was required to apply for SSI with the Social Security Administration. (Exhibit A, p. 6)
4. On April 17, 2023, a Medical Determination Verification Checklist was issued to Petitioner requesting that she apply for Social Security Administration disability benefits and complete a DHS-49F Medical Social Questionnaire, DHS-155 authorization to Release Protected Health Information; and a DHS-3975 Reimbursement Authorization by an April 27, 2023 due date. (Exhibit A, pp. 12-25)
5. On April 21, 2023, Petitioner called the Department asking about the status of her case. (Exhibit A, p. 42)
6. On April 24, 2023, Petitioner submitted a Medical Needs-PATH form. (Exhibit B, p. 3)
7. On May 1, 2023, May 2, 2023, and May 4, 2023, Petitioner made additional calls to the Department asking about the status of her case requesting a call back as she had not heard anything. (Exhibit A, p. 42)
8. On May 4, 2023, the Department contacted Petitioner and the needed medical packet that was due on April 27, 2023 was discussed. The individual that contacted Petitioner stated that they would check with the specialist to see if he wants to give Petitioner more time. (Exhibit A, p. 42)
9. On May 4, 2023, a Verification Checklist was issued to Petitioner requesting a physician's statement of disability by a May 15, 2023 due date. (Exhibit A, pp. 7-8)
10. On May 7, 2023, Petitioner submitted a medical exam report and medical documentation. (Exhibit B, p. 3)
11. On May 9, 2023, Petitioner submitted the DHS-49F Medical Social Questionnaire. (Exhibit A, p. 41; Exhibit B, p. 3)
12. On May 9, 2023, Petitioner also submitted a Medical Exam Report and Medical Needs-PATH. (Exhibit B, pp. 2-3)

13. On May 25, 2023, a Notice of Case Action was issued to Petitioner approving Child Development and Care (CDC) benefits as of August 28, 2022. A comment was added noting that the Petitioner did not provide all the documents that were mailed out by the due date therefore, she must attend the PATH program. (Exhibit A, pp. 26-29)
14. On June 13, 2023, a Notice of Noncompliance (DHS-2444) was issued to Petitioner for the date of June 11, 2023 based on no initial contact with the Michigan Works Agency (MWA). Notice was provided of a triage appointment scheduled for June 21, 2023 at 8:30 a.m. (Exhibit A, pp. 30-32)
15. On June 13, 2023, a Notice of Case Action was issued to Petitioner stating her FIP case would close effective July 1, 2023 based on noncompliance with PATH. (Exhibit A, pp. 50-54)
16. On July 12, 2023, Petitioner filed a hearing request contesting the department's determination. (Exhibit A, p. 3)

### **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. BEM 233A, pp. 5-6.

Bridges will automatically issue a DHS-4785, PATH Program Appointment Notice, from Bridges at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. The DHS-4785 will be generated overnight and can be viewed the next day in Correspondence History. In generating a PATH referral and the DHS-4785, Bridges will allow 6 days for the PATH referral to be processed through Central Print before requiring the client to attend PATH. The one-stop service centers have been advised not to serve clients who appear for AEP or PATH without a system-generated referral as client may not be eligible for PATH services. Bridges will include the date, time and location to appear for their PATH assignment on the automated DHS-4785. When assigned, clients must engage in and comply with all PATH assignments while the FIP application is pending. PATH engagement is a condition of FIP eligibility. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. Bridges automatically denies FIP benefits for noncompliance while the application is pending. BEM 229, January 1, 2021, pp. 5-6.

In this case, Petitioner was a recipient of FIP benefits and a mandatory PATH participant. The evidence indicates Petitioner had been deferred from PATH, and because the medical verification indicated a disability lasting more than 90 days, the

Department sent Petitioner the forms she needed to complete and return for a long term disability determination.

On April 17, 2023, a Medical Determination Verification Checklist was issued to Petitioner requesting that she apply for Social Security Administration disability benefits and complete a DHS-49F Medical Social Questionnaire, DHS-155 authorization to Release Protected Health Information; and a DHS-3975 Reimbursement Authorization by an April 27, 2023 due date. (Exhibit A, pp. 12-25). The Department asserts that Petitioner did not provide all of the needed forms. It is noted that on April 21, 2023, Petitioner called the Department asking about the status of her case. (Exhibit A, p. 42). On April 24, 2023, Petitioner submitted a Medical Needs-PATH form. (Exhibit B, p. 3). On May 1, 2023, May 2, 2023, and May 4, 2023, Petitioner made additional calls to the Department asking about the status of her case requesting a call back as she had not heard anything. (Exhibit A, p. 42).

On May 4, 2023, the Department contacted Petitioner and the needed medical packet that was due on April 27, 2023 was discussed. The individual that contacted Petitioner stated that they would check with the specialist to see if he wants to give Petitioner more time. (Exhibit A, p. 42). On May 4, 2023, a Verification Checklist was issued to Petitioner requesting a physician's statement of disability by a May 15, 2023 due date. (Exhibit A, pp. 7-8). It does not appear that the Department indicated any of the forms from the April 17, 2023 Verification Checklist were still needed. On May 7, 2023, Petitioner submitted a medical exam report and medical documentation. (Exhibit B, p. 3). Additionally, on May 9, 2023, Petitioner submitted the DHS-49F Medical Social Questionnaire. (Exhibit A, p. 41; Exhibit B, p. 3). On May 9, 2023, Petitioner also submitted a Medical Exam Report and Medical Needs- PATH. (Exhibit B, pp. 2-3). Accordingly, it appears that Petitioner provided what was requested on the May 4, 2023 Verification Checklist by the May 15, 2023 due date.

Further, there was no evidence that Petitioner was sent the required DHS-4785, PATH Program Appointment Notice when the deferral ended based on the asserted failure to provide all the needed forms for the medical packet at this point. The only DHS-4785, PATH Program Appointment Notices included in the Department's exhibits were from prior referrals to PATH for appointments scheduled for February 9, 2022, March 1, 2023, and March 6, 2023. (Exhibit A, pp. 34-39).

Accordingly, good cause is found for Petitioner's noncompliance for not attending PATH/no initial contact with MWA for the June 11, 2023 date because it does not appear that there was accurate communication regarding what verifications were still needed when the May 4, 2023 Verification Checklist was issued and it does not appear that the required DHS-4785, PATH Program Appointment Notice was issued when Petitioner was referred back to PATH at the end of May 2023/beginning of June 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it

closed and sanctioned Petitioner's (FIP) case for noncompliance with PATH program requirements.

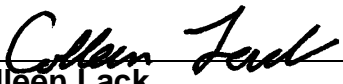
**DECISION AND ORDER**

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. Reinstate Petitioner's FIP case retroactive to the July 1, 2023 effective date and re-determine eligibility in accordance with Department policy. This may include re-requesting any forms/verifications needed for the medical packet for a long-term disability determination.
2. Remove any sanction applied to Petitioner's FIP case related to this alleged non-compliance.

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**  
Corlette Brown  
Wayne-District 31 (Grandmont)  
17455 Grand River  
Detroit, MI 48227  
**MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov**

**Interested Parties**

BSC4  
G Vail  
D Sweeney  
B Sanborn  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]