



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], MI 49337

Date Mailed: October 26, 2023
MOAHR Docket No.: 23-004828
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On August 14, 2023, Petitioner, [REDACTED] requested a hearing to dispute the closure of her Family Independence Program (FIP) cash assistance benefits. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 25, 2023. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department), had Christi Weakley, Employment and Training Coordinator, and Rebecca Roger, PATH Assistant Manager, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 48-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's FIP benefits effective September 1, 2023?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In December 2019, the Department found Petitioner was in non-compliance with the requirements for FIP, and the Department closed Petitioner's FIP for three months.

2. In October 2022, the Department found Petitioner was in non-compliance with the requirements for FIP for a second time, and the Department closed Petitioner's FIP for six months.
3. On June 6, 2023, Petitioner signed an acknowledgment of the requirements of the PATH program, and Petitioner signed an acknowledgment of the non-compliance process.
4. Petitioner was employed part-time. Petitioner only worked on Mondays, and Petitioner worked approximately four to six hours each day that she worked.
5. Petitioner also attended school full-time.
6. On July 10, 2023, Petitioner worked her last day.
7. On July 17, 2023, Petitioner called in absent because she was sick.
8. On July 24, 2023, Petitioner called in absent to deal with an issue with her driver's license. Petitioner's employer terminated Petitioner from her employment for calling in for two weeks in a row.
9. Petitioner did not attempt to contact her PATH worker or the Department for assistance before Petitioner called in absent on July 24, 2023.
10. On August 1, 2023, the Department mailed a notice of case action to notify Petitioner that her FIP was closed effective September 1, 2023. The Department also mailed a notice of non-compliance that notified Petitioner that her FIP was closed for life due to it being her third time to be non-compliant with FIP.
11. On August 9, 2023, the Department held a triage meeting with Petitioner to determine if Petitioner had good cause for her non-compliance. Petitioner presented documents showing that her driver's license was going to be suspended effective July 27, 2023, if she did not do something to address a judgment against her. The Department found that Petitioner did not have good cause because Petitioner did not seek assistance from the Department before she called in absent.
12. Petitioner requested a hearing to dispute the closure of her FIP benefits.

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 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.

The Department requires clients who receive FIP to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A (October 1, 2022), p. 1. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. *Id.* However, there are consequences for a client who refuses to participate without good cause. *Id.* A client who fails to participate without good cause must be penalized. *Id.* Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. *Id.*

Petitioner called in absent for work for two consecutive weeks, which led to the termination of her employment. On July 24, 2023, Petitioner called in absent to deal with an issue with her driver's license. Petitioner received a notice that her driver's license would be suspended effective July 27, 2023, if Petitioner did not arrange to pay a judgment against her, so Petitioner called in absent to try to deal with that issue. This was a personal issue, and Petitioner did not need to call in absent to deal with it. Petitioner only worked four to six hours per day, so Petitioner had time to deal with her personal issue even if she would have worked her regularly scheduled hours. Petitioner was non-compliant because she did not participate in employment as required, and Petitioner did not have good cause for her non-compliance.

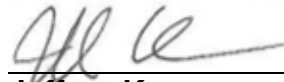
When a client is non-compliant with FIP, the client must be penalized. The minimum penalty for a third occurrence of non-compliance is FIP closure with a lifetime sanction. *Id.* at p. 8. This was Petitioner's third occurrence of non-compliance because Petitioner had prior occurrences in December 2019 and October 2022. Since this was Petitioner's third occurrence of non-compliance with FIP, Petitioner's minimum penalty is a FIP closure with a lifetime sanction. Therefore, the Department properly closed Petitioner's FIP with a lifetime sanction.

DECISION AND ORDER

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 act in accordance with its policies and the applicable law when it closed Petitioner's FIP benefits effective September 1, 2023.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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
Rose Ward
Newaygo County DHHS
1018 Newell
White Cloud, MI 49349
MDHHS-Newaygo-Hearings@michigan.gov

Interested Parties

BSC3
B Sanborn
MOAHR

Via First Class Mail:

Petitioner

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