



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]  
MI [REDACTED]

Date Mailed: December 4, 2023  
MOAHR Docket No.: 23-007201  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

### **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 November 21, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Brad Reno Hearing Facilitator. Department Exhibit 1, pp. 1-59 was received and admitted.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) for failing to participate with PATH?

### **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.
2. On July 31, 2023, Notice of Noncompliance and Notice of Case Action was sent to Petitioner informing her that her case would close effective September 1, 2023, for failing to participate with PATH and/or employment related activity.
3. On August 9, 2023, a triage meeting was held, and Petitioner was found to not have good cause. Petitioner's case was processed for closure on September 1, 2023, with imposition of sanction from September 1, 2023, through November 30, 2023.

4. On [REDACTED] 2023, applied for FIP.
5. On September 9, 2023, Petitioner's FIP application was denied because she was under a sanction.
6. On [REDACTED] 2023, Petitioner applied for FIP.
7. On October 12, 2023, Petitioner's application was denied because she was under a sanction.
8. On October 12, 2023, Petitioner requested hearing disputing the closure of FIP.

### **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.

#### **FIP**

MDHHS 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. BEM 233A (October 2021)

#### **REFUSING SUITABLE EMPLOYMENT**

Refusing suitable employment means doing any of the following: Voluntarily reducing hours or otherwise reducing earnings. Quitting a job (see exception below):

Exception: This does not apply if: PATH verifies the client changed jobs or reduced hours in order to participate in a PATH approved education and training program. Firing for misconduct or absenteeism (not for incompetence).

Note: Misconduct sufficient to warrant firing includes any action by an employee or other adult group member that is harmful to the interest of the

employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is not limited to drug or alcohol influence at work, physical violence, and theft or willful destruction of property connected with the individual's work. Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

Exception: Meeting participation requirements is not good cause for refusing suitable employment, unless the employment would interfere with approved education and training. See Benefit Delay for Refusing Employment in this item for applicants refusing employment within 30 days prior to the date of application or while the application is pending. See Noncompliance Penalties for Active FIP Cases and Member Add in this item for member adds refusing employment within 30 days prior to the date of application or while the application for the member add is pending. Do not penalize applicants or member adds who refused employment more than 30 days prior to the date of application or date of member add. BEM 233A

### **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. Good cause includes the following: Employed 40 Hours The person is working at least 40 hours per week on average and earning at least state minimum wage. Client Unfit The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability related needs or limitations may not have been identified or assessed prior to the noncompliance. Illness or Injury The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. Reasonable Accommodation 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. No Child Care The client requested child care services from MDHHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- Appropriate. The care is appropriate to the child's age, disabilities and other conditions.
- Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.
- Suitable provider.

The provider meets applicable state and local standards. Also, license exempt providers who are not licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA) Child Care Licensing Bureau must meet Child Development and Care (CDC) enrollment requirements; see BEM 704.

- Affordable.

The child care is provided at the rate of payment or reimbursement offered by CDC. No Transportation The client requested transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. Illegal Activities The employment involves illegal activities. Discrimination The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs. Unplanned Event or Factor Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

Comparable Work The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit. Long Commute Total commuting time exceeds:

- Two hours per day, not including time to and from child care facilities or
- Three hours per day, including time to and from child care facilities.

Clients Not Penalized Ineligible caretakers, disqualified non-citizens, and single parents who cannot find appropriate child care for a child under age six are not required to participate. BEM 233A

In this case, Petitioner testified at hearing and provided documentation that her child had hand, foot and mouth disease beginning on June 27, 2023, and the child was sent home from day care and could not return to day care until the child was symptom free. Petitioner submitted the documentation from her day care provider on October 12,

2023, well after her case had closed. Petitioner did not submit any medical documentation confirming that child's diagnosis.

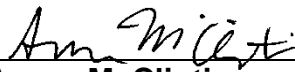
Petitioner had an opportunity to submit documentation and establish good cause at the triage meeting on August 9, 2023, to establish that she had a sick child who could not be taken to day care. Petitioner did not submit any documentation to establish good cause at the triage meeting. Therefore, the Department was correct to find that good cause was not established and to process the case for closure. BEM 233A.

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 Petitioner's FIP case for failing to participate with PATH without good cause.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

AM/ml

  
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**Aaron McClintic**  
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**

Janice Collins

Genesee County DHHS Union St District Office

125 E. Union St 7th Floor

Flint, MI 48502

**MDHHS-Genesee-UnionSt-Hearings@michigan.gov**

**Interested Parties**

BSC2

B Sanborn

MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]