



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: April 29, 2022
MOAHR Docket No.: 22-001287
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 April 21, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. [REDACTED] boyfriend, appeared as a witness for Petitioner and provided interpretation as needed. The Department of Health and Human Services (Department) was represented by LeeAnn Lentner, Family Independence Manager (FIM), and Larissa Cochran, Family Independence Specialist (FIS). Edward Jasch, Assistant Manager, and Jeannette Collazo Bessett, Career Coach, appeared as witnesses for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-30. The record was left open through the end of the day for the Department to provide additional documentation. The Department's amended summary packet was received and has been admitted as Exhibit A, pp. 1-68.

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 September 27, 2021, the Career Coach emailed Petitioner instructions regarding how to fill out the education log for PATH. (Exhibit A, pp. 31-32)
3. On October 29, 2021, the Career Coach emailed Petitioner additional instructions for completing the job, education, and activity logs. (Exhibit A, pp. 33-39)
4. On December 22, 2021, Petitioner met with the Career Coach. In part, Petitioner was provided an education log and reminded that she has instructions. (Exhibit A, pp. 40-44)
5. On February 2 and 10, 2022, the Career Coach emailed Petitioner an example of how to enter virtual education logs. (Exhibit A, pp. 45-47)
6. On February 11, 2022, the Career Coach's February 10, 2022 email was returned as undeliverable. (Exhibit A, p. 48)
7. On February 11, 2022, the Career Coach emailed Petitioner regarding no PATH hours. (Exhibit A, p. 49)
8. On February 12, 2022, the Career Coach's February 11, 2022 email was returned as undeliverable. (Exhibit A, p. 50)
9. On February 13, 2022, Petitioner emailed the Career Coach. (Exhibit A, pp. 51-58)
10. On February 28, 2022, the Career Coach emailed Petitioner to complete the attached education logs, or the hours could not be processed. (Exhibit A, pp. 51-58)
11. On March 1, 2022, the Career Coach sent Petitioner a noncompliance for missing corrected education logs for weeks January 30, 2022, February 6, 2022, and February 13, 2022. A Re-engagement meeting was set for March 3, 2022 at 8:30 am. (Exhibit A, p. 20)
12. On March 3, 2022, PATH assigned Petitioner to triage based on: (1) being a no call no show for the March 3, 2022 reengagement meeting; (2) missing corrected education logs for weeks January 30, 2022, February 6, 2022, and February 13, 2022. (Exhibit A, pp. 20 and 30)
13. On March 4, 2022, a Notice of Noncompliance (DHS-2444) was issued to Petitioner based on a missed appointment/meeting with March 3, 2022 date. (Exhibit A, pp. 10-12)
14. On March 4, 2022, a Notice of Case Action was issued to Petitioner, in part, stating the FIP case would close for at least three months effective April 1, 2022, due to an alleged violation of the PATH program requirements. Notice was provided of a triage appointment scheduled for March 16, 2022 at 2:00 p.m. (Exhibit A, pp. 13-18)

15. On March 16, 2022, a triage meeting was held. Petitioner did not attend or provide any documentation to indicate reason for non-compliance. No good cause was found for Petitioner's non-compliance. (Exhibit A, pp. 2, 20, and 30)
16. On March 16, 2022, Petitioner filed a request for hearing contesting the Department's action. (Exhibit A, pp. 4-8)

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, January 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

In this case, Petitioner was a recipient of FIP benefits and a mandatory PATH participant. On September 27, 2021, the Career Coach emailed Petitioner instructions regarding how to fill out the education log for PATH. (Exhibit A, pp. 31-32) On October 29, 2021, the Career Coach emailed Petitioner additional instructions for completing the job, education, and activity logs. (Exhibit A, pp. 33-39) On December 22, 2021, Petitioner met with the Career Coach. In part, Petitioner was provided an education log and reminded that she has instructions. (Exhibit A, pp. 40-44) On February 2 and 10, 2022, the Career Coach emailed Petitioner an example of how to enter virtual education logs. (Exhibit A, pp. 45-47) On February 11, 2022, the Career Coach's February 10, 2022 email was returned as undeliverable. (Exhibit A, p. 48) On February 11, 2022, the Career Coach emailed Petitioner regarding no PATH hours. (Exhibit A, p. 49) On February 12, 2022, the Career Coach's February 11, 2022 email was returned as undeliverable. (Exhibit A, p. 50)

On February 13, 2022, Petitioner emailed the Career Coach. (Exhibit A, pp. 51-58) On February 28, 2022, the Career Coach emailed Petitioner to complete the attached education logs or the hours could not be processed. (Exhibit A, pp. 51-58)

On March 1, 2022, the Career Coach sent Petitioner a noncompliance for missing corrected education logs for weeks January 30, 2022, February 6, 2022, and February 13, 2022. A Re-engagement meeting was set for March 3, 2022 at 8:30 am. (Exhibit A, p. 20)

On March 3, 2022, PATH assigned Petitioner to triage based on: (1) being a no call no show for the March 3, 2022 reengagement meeting; (2) missing corrected education logs for weeks January 30, 2022, February 6, 2022, and February 13, 2022. (Exhibit A, pp. 20 and 30)

On March 4, 2022, a Notice of Noncompliance (DHS-2444) was issued to Petitioner based on a missed appointment/meeting with March 3, 2022 date. (Exhibit A, pp. 10-

12) On March 4, 2022, a Notice of Case Action was issued to Petitioner, in part, stating the FIP case would close for at least three months effective April 1, 2022, due to an alleged violation of the PATH program requirements. Notice was provided of a triage appointment scheduled for March 16, 2022 at 2:00 p.m. (Exhibit A, pp. 13-18)

On March 16, 2022, a triage meeting was held. Petitioner did not attend or provide any documentation to indicate reason for non-compliance. No good cause was found for Petitioner's non-compliance. (Exhibit A, pp. 2, 20, and 30)

Petitioner asserted that if she had done something incorrectly on a form, the Career Coach waited months to tell her about it instead of explaining exactly what Petitioner needed to change. Petitioner stated she filled out the forms the same way she had for the prior worker, but this Career Coach threatened her with noncompliance regarding the forms without explaining or showing her what to do. This caused Petitioner to get behind. Petitioner further asserts that the non-compliance determination was related to Petitioner becoming frustrated over the denials of her request for assistance with purchasing clothing because the Career Coach did not like the clothing she selected. (Exhibit A, pp. 4-6; Petitioner and Boyfriend Testimony)

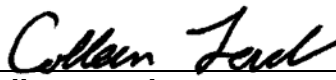
However, as listed above, starting in September 2021 the Career Coach sent numerous emails to Petitioner regarding instructions for properly completing the logs. (Exhibit A, pp. 31-58) Overall, Petitioner did not establish good cause for failing to attend the March 3, 2022 reengagement meeting or failing to properly complete the logs to provide legitimate documentation of her participation with PATH activities.

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/dm



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

Sent via Email:

MDHHS-Kent-Hearings
G. Vail
D. Sweeney
MOAHR
BSC3HearingDecisions

Sent via First-Class Mail:

MI