



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: September 28, 2022
MOAHR Docket No.: 22-003790
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 September 26, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Malak Fawaz, Assistant Payments Worker, and Crystal Hackney, Assistant Payments Supervisor.

ISSUE

Did MDHHS properly close Petitioner's Family Independence Program (FIP) case due to non-compliance with Partnership. Accountability. Training. Hope (PATH) without good cause?

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 an ongoing recipient of FIP for a group size of three.
2. On July 29, 2022, Petitioner reported to MDHHS that she is experiencing a high-risk pregnancy, with complications, and will be unable to participate in PATH (Exhibit A, p. 44).
3. On July 29, 2022, MDHHS issued a Verification Checklist and Medical Needs form to Petitioner, informing her that she must have her doctor complete the DHS-54-E, Medical Needs – PATH form and return it to MDHHS by August 8, 2022 (Exhibit A, pp. 17-21).

4. On August 15, 2022, MDHHS issued a Notice of Noncompliance to Petitioner, instructing her to attend a Triage meeting on August 25, 2022 to discuss whether she had good cause for the alleged noncompliance and failure to participate in PATH as required (Exhibit A, p. 35).
5. On August 15, 2022, MDHHS issued a Notice of Case Action to Petitioner advising her that effective September 1, 2022, her FIP case would be closed because she failed to participate in employment and/or self-sufficiency-related activities without good cause¹ (Exhibit A, pp. 8-14).
6. On August 18, 2022, Petitioner returned a completed Medical Needs – PATH form to MDHHS, which stated that the only work limitations medically placed on Petitioner were that she may not lift anything over 25 lbs. The form was signed by Petitioner's doctor and listed his National Provider Identifier (NPI) Number (Exhibit A, pp. 31-33).
7. On August 22, 2022², a Triage meeting was conducted via telephone between Petitioner and MDHHS. During this meeting, Petitioner informed MDHHS that the Medical Needs form was filled out incorrectly by the medical staff, but her doctor would submit an updated version that states she is on bedrest and unable to participate in PATH and unable to work. MDHHS received this updated form on September 13, 2022.
8. On August 26, 2022, Petitioner submitted a request for hearing regarding the closure of her FIP case (Exhibit A, pp. 4-5).

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.

In this case, Petitioner requested a hearing to dispute the closure of her FIP case due to noncompliance with PATH, without good cause.

¹ The Notice of Case Action states that Petitioner was noncompliant with PATH for a third time. MDHHS testified that this is an error that is attempting to be resolved. Petitioner was only in noncompliance one time previously, in November 2018.

² The Triage meeting originally scheduled for August 25, 2022 was rescheduled to August 22, 2022.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A (January 2022), p. 1. The WEI can be considered noncompliant for doing any of the following (including other reasons) without good cause:

- Failing or refusing to participate in PATH or other employment service providers as required;
- Failing to provide legitimate documentation of work participation;
- Failure or refusing to appear for a scheduled appointment or meeting related to assigned activities;
- Stating orally or in writing a definite intent not to comply with program requirements;
- Failing or refusing to participate in employment and/or self-sufficiency related activities or to participate in a required activity;
- Failing or refusing to accept a job referral, complete a job application or appear for a job interview.

BEM 233A (January 2022) pp. 1-4.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that is based on factors that are beyond the control of the noncompliant person. Claims of good cause must be verified and documented. The various good cause reasons that are to be considered by MDHHS are found in BEM 233A, pp. 4-7. Clients requesting a deferral from PATH due to pregnancy complications must provide medical verification that indicates that they are unable to participate. An individual requesting deferral greater than 90 days for pregnancy complications is not subject to the requirements for establishing long-term incapacity. BEM 230A, p. 9. If the client claims an inability to participate in PATH based on pregnancy complications, it must be verified by a note from client's doctor, the DHS-54A, Medical Needs form, or the DHS 54E Medical Needs – PATH form. BEM 230A, p. 23.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities or refuses suitable employment, must be penalized. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8. In this case, the Notice of Case Action states that Petitioner was noncompliant with PATH for a third time. MDHHS testified that this is an error that is attempting to be resolved. Petitioner was only in noncompliance one time previously, in November 2018. Therefore, she would only be subject to a sanction of six months.

Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. A triage must be conducted, and good cause must be considered, even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 9-12. *Clients must comply with triage requirements and provide good cause verification within the negative action period.* BEM 233A, pp. 10-13 (Emphasis added). Good cause is determined using the best information available during the triage and prior to the negative action date. If the client does not provide a good cause reason for the noncompliance, MDHHS will determine good cause based on the best information available. BEM 233A, pp. 10-13.

In this case, at the triage meeting Petitioner informed MDHHS that the Medical Needs form was filled out incorrectly by the medical staff, but her doctor would submit an updated version that states she is on bedrest and unable to participate in PATH and unable to work. MDHHS received this updated form on September 13, 2022. However, this was after the negative action date, so MDHHS advised Petitioner to reapply for FIP. The only information available to MDHHS at the time of the triage meeting was the Medical Needs form submitted on August 18, 2022, which stated that the only work limitations medically placed on Petitioner were that she may not lift anything over 25 lbs. The form was signed by Petitioner's doctor and listed his National Provider Identifier (NPI) Number (Exhibit A, pp. 31-33). Based upon this information, MDHHS determined that Petitioner was medically cleared to work and therefore did not have good cause for failing to participate in PATH. Since MDHHS is required to make a determination at the time of the triage meeting, using the information available at that time, MDHHS acted in accordance with policy in determining that Petitioner was noncompliant.

Since Petitioner did not establish prior to the triage and negative action date that she had good cause for her failure to comply with the requirements of the PATH program, 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 MDHHS acted in accordance with Department policy when it determined that Petitioner was noncompliant with work related activities without good cause, and closed Petitioner's FIP case.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

DN/mp



Danielle Nuccio

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
MDHHS-Wayne-17-hearings
B. Sanborn
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]