



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: December 7, 2022
MOAHR Docket No.: 22-004792
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on November 30, 2022 via teleconference. Petitioner appeared and represented herself. Leah Janish, Case Manager, and Brandy Guinn, Program Manager, represented the Michigan Department of Health and Human Services (MDHHS or Department). Larry Callahan, Partnership. Accountability, Training. Hope. (PATH) Coordinator for Michigan Works!, appeared as a witness for MDHHS.

ISSUE

Did MDHHS properly terminate Petitioner's Family Independence Program (FIP)?

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 benefits on behalf of herself and her minor child.
2. Petitioner was referred to the PATH program and was fulfilling her employment and/or self-sufficiency-related activities by searching for work and attended college classes part-time. Petitioner informed MDHHS and PATH that she had barriers to accessing opportunities, including a disability that made it difficult to walk, stand and lift heavy things, and that she lacked transportation. Petitioner submitted a Medical Needs form to MDHHS (Exhibit A, pp. 45-46). According to the Medical Needs form, Petitioner could work with limitations (Exhibit A, p. 45). Petitioner was limited in terms of lifting/carrying, standing/walking and sitting (Exhibit A, p. 45).

Petitioner also requested transportation assistance on several occasions and made inquiries on those requests, including on February 7, 2022 and August 25, 2022 (Exhibit A, pp. 30-31). On September 20, 2022, MDHHS denied Petitioner's request for a gas card (Exhibit A, p. 26).

3. On October 3, 2022, MDHHS sent Petitioner a Notice of Noncompliance indicating that on September 20, 2022 Petitioner refused or failed to participate in required employment and/or self-sufficiency-related activities for FIP (Exhibit A, pp. 37-39). The notice also indicated that a meeting (Triage Meeting) was scheduled for October 11, 2022 to give Petitioner an opportunity to report and verify the reasons for noncompliance (Exhibit A, p. 37).
4. Also on October 3, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her FIP case would be closed effective [REDACTED] 2022 due to a failure to participate in employment and/or self-sufficiency activities (Exhibit A, pp. 49-53).
5. On October 11, 2022, Petitioner participated in a Triage Meeting with MDHHS. Petitioner indicated that she did not comply with the proposed volunteer activities due to her disability and because she lacked transportation. MDHHS determined that Petitioner failed to establish good cause for noncompliance.
6. On [REDACTED], 2022, Petitioner filed a Request for Hearing disputing the termination of her FIP benefits (Exhibit A, pp. 4-6).

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. MDHHS 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 is a cash assistance program designed to help individuals and families become self-sufficient. BEM 209 (January 2022), p. 1. Individuals are eligible for FIP if they satisfy all financial and non-financial eligibility requirements. *Id.* At application, specialists must assess the potential barriers that may prevent clients from obtaining employment or participating in self-sufficiency and work-related activities. BEM 229 (January 2021), pp. 1-2. MDHHS must assist clients who present with childcare or transportation barriers before requiring participation in the Partnership. Accountability. Training. Hope. (PATH)

program. *Id.*; See BEM 232: Direct Support Services (DDS). DDS are goods and services provided to help families achieve self-sufficiency. BEM 232 (May 2022), p. 1. Employment Support Services (ESS) are a type of DDS and include, but are not limited to, transportation, special clothing, tools, physical exams, vehicle purchases, vehicle insurance and vehicle repair. *Id.* MDHHS and the PATH program have the ability to authorize ESS. *Id.*

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. BEM 230A (January 2022), p. 1. These clients must participate in employment and/or self-sufficiency activities to increase their employability and obtain employment. *Id.* WEIs not referred to PATH will participate in other activities to overcome barriers so they may eventually be referred to PATH or other employment service provider. MDHHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency-related activities is subject to penalties.

MDHHS must make reasonable efforts to ensure that persons with disability-related needs or limitations have an effective and meaningful opportunity to benefit from MDHHS programs and services to the same extent as persons without disabilities. BEM 230A, p. 2. Efforts to accommodate persons with disabilities includes modifying program requirements and/or providing the person with extra assistance. *Id.*, p. 4. Modifications or extra help may include but are not limited to: reduced hours of required participation, extended education allowance including more than 12 months allowed for vocational education, and extended job search/job readiness time limit. *Id.* When clients with verified disabilities are fully participating to their capability, they are counted as fully engaged in meeting work participation requirements regardless of the hours in which they are engaged, even if they do not meet federal work requirements. *Id.*

MDHHS sanctions WEI individuals who fail, without good cause, to participate in self-sufficiency-related activities. BEM 233A (January 2022), p. 1. The first noncompliance sanction results in case closure for a minimum of three months, the second noncompliance sanction results in case closure for six months, and the third sanction results in lifetime ineligibility. *Id.* Clients have an opportunity to demonstrate at a Triage Meeting that they had good cause for noncompliance. *Id.*, p. 4. Good cause reasons include the failure to make a reasonable accommodation for the client's disability and the client requested transportation services from MDHHS, PATH or other reemployment services provider prior to the case closure and reasonably priced transportation is not available to the client. *Id.*, pp. 5-6.

In this case, MDHHS terminated Petitioner's FIP benefits after issuing an employment-related sanction based on noncompliance with the PATH program. MDHHS testified that Petitioner was not deferred from PATH because a medical professional indicated that she could work with some limitations. The PATH Coordinator testified that

Petitioner was complying with the PATH program requirements despite her reported barriers and limitations and that she was satisfying the employment and/or self-sufficiency activities by searching for work and attending college classes. However, the PATH coordinator further stated that Petitioner had exhausted the hours allowed for work search and educational activities, and that she was now required to engage in community service or volunteer work.

Petitioner testified that she is able to participate in some work-related and self-sufficiency activities but has severe limitations. She has a disorder that makes it painful to walk or to stand. She is attending college classes on a part-time basis and is caring for her child (Exhibit 1, pp. 41-45). However, she struggles with transportation issues and is dependent on family members for assistance (Exhibit 1, pp. 25-28). Petitioner further stated that she was attempting to comply with the PATH program requirement to engage in volunteer activities but could not find an organization that provided remote volunteer opportunities. She searched for remote opportunities online. She was unable to engage in volunteer opportunities in-person due to her lack of transportation and her disability. She asked MDHHS and PATH for assistance in finding remote volunteer opportunities, but meaningful assistance was not provided.

On October 3, 2022, MDHHS sent Petitioner a Notice of Noncompliance indicating that Petitioner refused or failed to participate in a program requirement (Exhibit A, pp. 37-39). On October 11, 2022, Petitioner participated in a Triage Meeting with MDHHS. At the Triage Meeting, Petitioner reiterated that she was struggling to find volunteer opportunities because of her disability and transportation issues. MDHHS testified that Petitioner's reasons did not amount to good cause because she did not request assistance with transportation before she was in noncompliance. MDHHS suggested that she could walk to volunteer opportunities if she could not find remote opportunities. Given Petitioner's disability, this option was not feasible.

MDHHS is required to make reasonable accommodations for clients with disabilities and to address barriers to participation in self-sufficiency activities, and it failed to do so here. The record shows that Petitioner repeatedly requested transportation assistance before she was in noncompliance. Her requests for transportation assistance before she was in noncompliance were ignored or delayed. Then, once Petitioner was in noncompliance, MDHHS denied her request for transportation assistance because she was in noncompliance. It is noteworthy that Petitioner's noncompliance was caused, or at least partially caused, by a lack of transportation in the first place. Petitioner has demonstrated that she had good cause for noncompliance based on MDHHS' failure to resolve her transportation barrier and failure to make a reasonable accommodation based on her disability.

Furthermore, MDHHS has the authority to modify program requirements for persons with disabilities and must provide extra help to those individuals. Modifications or extra help may include, but are not limited to: reduced hours of required participation, extended education allowance including more than 12 months allowed for vocational education, and extended job search/job readiness time limit. BEM 230A, p. 4. There is

no evidence in the record that MDHHS or the PATH program considered modifying the program requirements in this case. A commonsense modification would be to extend the education allowance beyond 12 months because Petitioner is a current college student.

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 did not act in accordance with Department policy when it terminated Petitioner's FIP benefits.

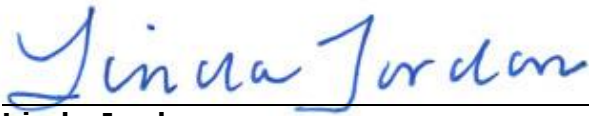
DECISION AND ORDER

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

MDHHS 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. Remove the noncompliance sanction/disqualification applied to Petitioner's FIP case on September 20, 2022 for failure to comply employment and/or self-sufficiency-related activities;
2. Reinstate Petitioner's FIP case and redetermine Petitioner's eligibility for FIP benefits, effective [REDACTED] 2022 ongoing;
3. Issue Petitioner supplements for any FIP benefits that she was eligible to receive but did not, from [REDACTED] 2022 ongoing;
4. Assess and resolve transportation-related barriers by determining Petitioner's eligibility for Employment Support Services (ESS), from September 20, 2022 ongoing;
5. Make reasonable accommodations for Petitioner's disability in relation to the required employment and/or self-sufficiency-related activities. Reasonable accommodations may include modifying program requirements to reduce the number of hours of required participation, extending the 12-month education allowance, or extending the job search/job readiness time limit; and
6. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
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
Yaita Turner
Oakland County Pontiac-Woodward
Dist.
51111 Woodward Ave 5th Floor
Pontiac, MI 48342
**MDHHS-Oakland-District-IV-
Hearings@michigan.gov**

Interested Parties

D. Sweeney
G. Vail
BSC4

Via-First Class Mail :

Petitioner

MI