



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 14, 2023
MOAHR Docket No.: 22-006145
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on February 8, 2023. Petitioner appeared and was unrepresented. ██████████, Petitioner's grandmother, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Olivette Gordon, manager, and Ayanas Woodard, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility due to noncompliance with employment-related activities.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████, Petitioner applied for FIP benefits.
2. As of September 12, 2022, Petitioner was deferred from employment-related activities until November 4, 2022, following the birth of a child on ██████████ 2022.
3. On an unspecified date, MDHHS approved Petitioner for FIP benefits.
4. On October 25, 2022, MDHHS mailed Petitioner a PATH Appointment Notice scheduling Petitioner to participate in a video orientation with Partnership, Accountability, Training and Hope (PATH) on November 4, 2022.
5. On November 4, 2022, Petitioner attended the PATH orientation. During orientation, PATH advised Petitioner that participation would be required on the

following Tuesday or Thursday. Petitioner advised the PATH worker that she attended school and could not attend. The PATH worker told Petitioner to inform her MDHHS specialist.

6. On November 30, 2022, MDHHS initiated termination of Petitioner's FIP eligibility, effective January 2023. MDHHS also imposed a 6-month disqualification, due to Petitioner's alleged non-compliance with employment-related activities.
7. On November 30, 2022, MDHHS mailed Petitioner a Notice of Noncompliance stating Petitioner was non-compliant with employment-related activities. A triage to discuss good cause was scheduled for December 2022.
8. On December 19, 2022, during a triage, Petitioner told MDHHS that she was unable to attend PATH because of school obligations.
9. As of December 19, 2022, neither PATH nor MDHHS considered whether Petitioner met PATH requirements due to school obligations.
10. On December 22, 2022, Petitioner requested a hearing to dispute the termination of FIP benefits and the imposing of an employment-related disqualification.

CONCLUSIONS OF LAW

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 policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FIP benefits. Exhibit A, p. 3. A Notice of Case Action dated November 30, 2022, stated that Petitioner's FIP eligibility would end January 2023 due to non-compliance with employment-related activities. Exhibit A, pp. 4-6. The notice also informed Petitioner of a six-month employment-related disqualification due to Petitioner's second non-compliance with employment-related activities.¹

¹ Petitioner's hearing request and her grandmother's testimony suggested Petitioner additionally disputed whether a previous employment-related disqualification was properly imposed. Aside from Petitioner's hearing request being ambiguous about the dispute, Petitioner's hearing request was untimely. MDHHS mailed notice of Petitioner's first disqualification on June 6, 2022. Clients have 90 days from the date of written notice to request a hearing (see BAM 600). Petitioner's hearing request from December 2022 was untimely to dispute the earlier imposed employment-related disqualification.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2022) p. 1. PATH is administered by the Talent and Economic Development (TED), State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (October 2022) p. 2. Failing to appear and participate with PATH without good cause is grounds for noncompliance. *Id.* 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. *Id.*, p. 4.

Noncompliant PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.*, p. 9. MDHHS is to determine good cause during the triage and prior to the negative action effective date. p. 12.

MDHHS testified that Petitioner applied for FIP benefits on September 12, 2022. MDHHS explained that Petitioner was temporarily deferred from employment-related activity participation due to giving birth to a child on August 5, 2022.² After Petitioner's deferral from PATH attendance ended, MDHHS sent a PATH Appointment Notice scheduling Petitioner for orientation with PATH on November 4, 2022. Exhibit A, pp. 7-8.

MDHHS contended that Petitioner failed to attend PATH orientation. Petitioner responded she attended PATH orientation as scheduled. Petitioner acknowledged she did not attend PATH after orientation which was scheduled to begin the following Tuesday or Thursday. Petitioner's excuse for not attending PATH beyond orientation was an obligation as a full-time college student.³

Petitioner testified she attends Dorsey Business School five days per week for at least four hours per day. Petitioner testified, without rebuttal, she told her PATH worker about her college studies; Petitioner further testified that she was told to report her college attendance to MDHHS. It was not disputed that Petitioner advised her MDHHS specialist of school attendance during a triage meeting on December 19, 2022.⁴ School attendance may not be good cause for failing to participate in employment-related activities (see BEM 233A). However, school attendance could be considered

² Parents are deferred from employment-related activities up to two months following childbirth. BEM 230A (October 2022) p. 8.

³ Petitioner's status as a full-time college student may result in Food Assistance Program (FAP) ineligibility (see BEM 245).

⁴ A Notice of Noncompliance scheduled Petitioner's triage for December 6, 2022. Exhibit A, pp. 10-12. Due to missed communications, a discussion of good cause did not occur until December 19, 2022.

employment-related activity participation. A school obligation must be approved by PATH or MDHHS to meet PATH participation requirements (see BEM 230A). There was no evidence that either PATH or MDHHS considered Petitioner's school attendance in determining if Petitioner met employment-related activity obligations.

The evidence established that Petitioner advised PATH and MDHHS of an activity which could meet employment-related activity participation requirements.⁵ The evidence also established that neither MDHHS nor PATH considered Petitioner's school attendance hours as a potential approved activity. Thus, MDHHS failed to establish that Petitioner was non-compliant with employment-related activities. By failing to establish employment-related non-compliance, the termination of Petitioner's FIP eligibility and imposition of a six-month employment-related disqualification were improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility beginning January 2023 subject to the finding that MDHHS failed to establish that Petitioner was non-compliant with employment-related activities;
- (2) Delete the corresponding six-month employment-related disqualification; and
- (3) Issue notice and/or supplements in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp


Christian Gardocki
Administrative Law Judge

⁵ Petitioner should be aware that school attendance is not a presumptive employment-related activity. In other words, MDHHS and PATH have discretion to deny Petitioner's school attendance as an employment-related activity.

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-57-Hearings
B. Sanborn
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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