



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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

Date Mailed: February 15, 2024
MOAHR Docket No.: 23-008667
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 13, 2024. The Petitioner was self-represented and appeared with her mother, [REDACTED], as a witness. The Department of Health and Human Services (Department) was represented by Gwendolyn Wilson, Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case for noncompliance with Partnership. Accountability. Training. Hope (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 an ongoing FIP recipient.
2. On October 18, 2024, Petitioner was sent a reminder via text message of her upcoming PATH appointment for her Application Eligibility Period (AEP)/ PATH Orientation on October 24, 2023 from 9:30am-12pm.
3. On October 24, 2023, Petitioner completed the PATH orientation but had to leave early due to school which she attends on Tuesday from 2:00 PM to 8:00 PM, Wednesday from 11:00 AM until 2:30 PM, and Thursday from 2:00 PM until 5:00

PM. The PATH case worker and Petitioner agreed to touch base via email to provide required documentation and to complete the process over the phone or via zoom.

4. Petitioner responded to the email from the PATH worker and provided some of the documentation and an explanation for why she could not provide the other documentation. Petitioner also accepted a meeting invitation from the PATH worker, but the invitation did not specify the method of the meeting whether via phone, Zoom, Teams, or in person.
5. On November 3, 2023, the Department issued a Notice of Noncompliance to Petitioner advising her that because she failed to participate in employment and/or self-sufficiency related activities for FIP on November 2, 2023, she was being scheduled a triage appointment for November 15, 2023 at 8:30 AM at the Department Grandmont Service Center. The notice also advised her that this was the first instance of noncompliance, and her case would close for three months unless she established good cause for noncompliance.
6. On the same day, the Department issued a Notice of Case Action to Petitioner advising her that effective December 1, 2023, her FIP case would close for noncompliance with PATH for a period of three months.
7. On November 13th and 14th, 2023, Petitioner received calls from a Department worker at 10:14 AM and 2:18 PM. A voicemail was left on Petitioner's phone indicating that the triage meeting would be conducted over the phone.
8. Petitioner attempted to call the worker back the same day, the next day, and again three or four days later but did not connect with anyone to complete the triage. Petitioner left a voicemail on the first call. By the time she had connected with anyone on November 17, 2023, her case had already been closed.
9. On November 27, 2023, the Department received Petitioner's request for hearing disputing the closure of her FIP for noncompliance with PATH indicating that she had attended, then fell ill for her next appointment, and then was told not to come into the office for the triage appointment.
10. On the day that the Department alleges Petitioner was supposed to have gone back to the PATH office to complete her AEP and orientation, Petitioner was sick and although she had a negative COVID-19 test, she was uncertain what to do and had emailed her PATH case worker.

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 disputes the closure of her FIP case for noncompliance with PATH requirements. Petitioner argues that she complied and followed up with both PATH and Department staff but was unable to connect with anyone. She also notes that on one occasion when the Department alleged she was supposed to attend PATH, Petitioner was sick and notified her PATH worker.

The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (October 2022), p. 1. Federal and state laws require each work-eligible individual in the FIP group to participate in PATH or engage in activities that meet participation requirements. *Id.* A work-eligible individual who refuses, without good cause, to participate in an assigned employment and/or other self-sufficiency related activity is subject to penalties. *Id.* The penalty is case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance, and lifetime closure for the third episode of noncompliance. BEM 233A (October 2022), p. 1.

Good cause for noncompliance as a FIP recipient includes:

- Being employed at least 40 hours per week on average.
- Being physical or mentally unfit for the job or activity.
- Illness or injury.
- A failure of the Department, employment services provider, contractor, agency or employer to provide reasonable accommodations for a client's disability.
- A failure of the Department, PATH, or other employment services provider to provide appropriate, suitable, affordable, and within reasonable distance, childcare when requested prior to closure.
- A failure of the Department, PATH, or other employment services provider to provide reasonably priced transportation when requested prior to case closure.
- The employment involves illegal activities.
- The client experiences discrimination based upon age, race, disability, gender, color, national origin, or religious belief.
- Credible information indicates there was an unplanned event or factor which prevents or significantly interferes with employment and/or self-sufficiency related activities.
- The client quits to assume employment comparable in salary and hours.
- The total commuting time exceeds two hours per day or three hours per day when including time to and from childcare facilities.

BEM 233A, pp. 4-7.

Here, Petitioner attended the first day of her PATH orientation and only left early because she was enrolled in school full-time. She advised the PATH worker of her school schedule and asked for a way to complete the PATH requirements which would accommodate her school schedule. Whether by miscommunication of the PATH worker or by Petitioner, Petitioner did not complete the AEP and the Department closed her case. Because the Department did not provide a copy of the email communications to Petitioner confirming an in-person appointment and because Petitioner has credibly testified that she believed she would be able to complete the remaining portion of her orientation/AEP via email, the phone, and/or videoconference, Petitioner has established good cause for her failure to complete the AEP/orientation.

Although Petitioner did not attend the triage to establish good cause with the Department, her failure to attend the triage is with good cause as well because the Department notified her of the method of the meeting and then changed the parameters. The Department erred in closing Petitioner's FIP case.

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 did not act in accordance with Department policy when it closed Petitioner's FIP case for noncompliance with PATH.

DECISION AND ORDER

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

THE DEPARTMENT 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 FIP sanctions for noncompliance with PATH;
2. Reinstate Petitioner's FIP benefits as of December 1, 2023;
3. Issue supplements to Petitioner for benefits not previously received; and,
4. Notify Petitioner in writing.

AMTM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
D. Sweeney
G. Vail
B. Sanborn
MOAHR

Via-First Class Mail :

Petitioner

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