



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN DPA
DIRECTOR

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Date Mailed: April 16, 2024
MOAHR Docket No.: 24-001955
Agency No.: ██████████
Petitioner: ██████████

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 April 3, 2024. The Petitioner was self-represented and had her mother ██████████ appear as a witness. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

ISSUE

Did the Department properly close and apply a penalty to Petitioner's Family Independence Program (FIP) case?

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 and is required to participate in PATH employment related activities.
2. In Fall 2023, Petitioner was enrolled in Political Science 101.
3. From at least November 2023 through February 2024, Petitioner worked as a Certified Nursing Assistant (CNA) in ██████████. Petitioner had the following shifts:

November 23, 2023 from 4:00 PM until 8:15 PM

November 23, 2023 10:00 PM until November 24, 2024 at 6:15 AM

December 16, 2023 from 8:00 PM until December 17, 2023 at 6:15 AM

December 24, 2023 from 6:00PM until December 25, 2023 at 6:15 AM

December 31, 2023 from 10:00 PM until January 1, 2024 at 6:30 AM

January 5, 2024 from 6:00 PM until January 6, 2024 at 2:00 AM

January 12, 2024 from 2:01 PM until 10:30 PM

January 14, 2024 from 8:00 PM until January 15, 2024 at 6:15 AM

January 21, 2024 from 6:00 AM until 2:30 PM

January 22, 2024 from 10:00 PM until January 23, 2024 at 6:15 AM

January 23, 2024 from 8:00 AM until 3:00 PM

February 24, 2024 from 10:00 PM until February 25, 2024 at 6:00 AM

4. In December 2023, Petitioner submitted to Michigan Works a letter from her Professor of Political Science and Philosophy indicating that Petitioner has done well with her course work and that for the three-credit course, Petitioner was anticipated to complete about 9 hours of course related studies per week.
5. Effective January 2024, Petitioner was enrolled in Business-150 as a virtual student.
6. On January 5, 2024, Petitioner wrote an email to her PATH worker requesting assistance with transportation for her job as a CNA.
7. On January 9, 2024, Petitioner advised her PATH worker that she was having trouble finding appropriate daycare accommodations for her child because Petitioner has not vaccinated her child and does not want to vaccinate her child.
8. On January 17, 2024, the Department issued a Notice of Noncompliance to Petitioner advising her that she had failed to participate in a required activity by January 17, 2024 and a triage appointment had been scheduled for January 23, 2024 at 1:30 PM at the Michigan Department of Health and Human Services (MDHHS) Southwest Service Center. The notice also advised her that her case would close for at least three months for a first offense of noncompliance.
9. On February 2, 2024, the Department issued a Notice of Case Action to Petitioner advising her that effective February 1, 2024, Petitioner's FIP benefits were closed because she was "not a dependent child, a caretaker/relative of a child, not pregnant, not age or disabled, not a refugee or does not have a qualifying relationship to other household members." The Notice of Case Action also had a note from the case specialist at the time indicating "FIP closed due to employment services non-cooperation—1st offense, sanction penalty period 2/1/24-4/30/24."

10. On February 16, 2024, the Department received Petitioner's request for hearing indicating that she was in school, that she worked more than 12 hours in the month of December and January, and that she had sent proof of income.

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 by attending school online and working. She further argues that she had attempted to communicate her school and work circumstances as well as her need for childcare assistance to no avail.

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.

Mandatory participants may have a delayed referral for PATH if they meet one of the following criteria:

- The person is a minor grantee and attending high school full time;
- Working a minimum of 40 hours per week at state minimum wage;
- A parent of a child under the age of two months when the newborn is in the home;
- A lack of adequate childcare which includes being appropriate for the child's ages, disabilities and conditions; a commute to and from the work and childcare facilities which does not exceed three hours per day; the provider meets state and local standards; and, is available at the rate of payment or reimbursement offered by the Child Development and Care (CDC) program;

- Pregnancy complications;
- Domestic violence
- Disability;
- VISTA, Job Corps, or AmeriCorp participation; and,
- Short or long term incapacity;

BEM 230A, pp. 7-12.

In this case, Petitioner does not meet any of the delayed referral requirements including the lack of adequate childcare. Pursuant to policy, Petitioner's inability to find childcare which complies with her vaccination beliefs does not qualify as being a lack of adequate childcare. BEM 230A, pp. 8-9. Therefore, she is required to comply with PATH requirements.

Activities for compliance with PATH requirements are broken down into core, non-core, and other activities. BEM 228 (January 2022), p. 10. Core activities include unsubsidized employment, subsidized private and public sector employment, work experience, on-the-job training, job search/job readiness, community service programs, vocational training, and providing childcare for a community service participant. BEM 228, p. 10. A non-core activity is only countable once the minimum number of core activities is completed. BEM 228, p. 12. Non-core activities include job skills training directly related to employment, education directly related to employment, and high school completion/GED. *Id.* All work eligible individuals required hours of participation are based on individual case circumstances. BEM 228, p. 3.

In reviewing this case, Petitioner has shown that she was attending a 3-credit class online and that she was working part time from November 2023 through February 2024. During the hearing, the Department did not establish a minimum number of hours worked or education requirements. Because Petitioner has established that she was attending school and was working and no minimum number of hours was established by the Department for Petitioner, Petitioner has shown that she is in compliance with PATH requirements and the Department has not met its burden of proof in establishing that it has complied with policy.

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 policy in closing Petitioner's FIP case and applying a 3-month sanction.

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 February 1, 2024;
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-41-Hearings
BSC4-HearingDecision
B. Sanborn
MOAHR

Via-First Class Mail :

Petitioner

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