

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████
██
██

MAHS Reg. No.: 15-018713
Issue No.: 1008
Agency Case No.: ██████████
Hearing Date: November 25, 2015
County: Macomb (20) Warren

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 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 November 25, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner, ██████████. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist; and ██████████, Eligibility Specialist and Participate in the Partnership.Accountability.Training.HOPE (PATH) Worker.

ISSUE

Did the Department properly impose a third lifetime sanction and permanently disqualify the Petitioner from receiving Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department issued a Notice of Case Action on September 11, 2015, which denied the Petitioner's FIP application on October 1, 2015, due to a third lifetime sanction for failure to Participate in the PATH Program without good cause. Exhibit A.
2. The Department did not provide a FIP Path penalty counter; and the non-cooperation summary indicated that in May 2015 the Petitioner was given good cause due to an unplanned event, which prevented or interfered with employment activity. Exhibit B.
3. The Department imposed a third sanction on the Petitioner when her application was denied. The Petitioner was receiving FIP at the time the application was denied and the sanction was imposed. The Department had not assigned the Petitioner to

attend the PATH Program orientation. The Petitioner also provided to the Department copies of hospital stays. The Department did not consider a deferral.

4. The Petitioner was given a PATH Appointment Notice and Notice of Noncooperation in March 2014 and a Notice of Noncompliance dated April 30, 2015. The Petitioner was sent a PATH appointment Notice on October 1, 2014, and a Notice of Noncompliance on October 1, 2014.
5. The Petitioner requested a timely hearing on October 8, 2015, protesting the Department's actions.

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, the Department denied the Petitioner's most current FIP application on October 1, 2015, and issued a Notice of Case Action dated September 11, 2015, due to a third sanction for failure to comply with PATH Program requirements. Exhibit A. The application was denied due to imposition of a third sanction and lifetime disqualification. The Noncooperation summary provided as evidence at the hearing indicated that the Petitioner had only two prior sanctions and indicated that in May 2015, good cause was determined as regards a Noncompliance Notice issued by the Department. Exhibit B. The Department did not provide an FIP noncompliance penalty counter.

Noncompliance penalties can be imposed if after a triage the Department determines that the client does not have good cause for failing to participate in the PATH Program or does not meet program requirements. Department policy provides:

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.

- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011, will be added to the individual's existing penalty count. BEM 233A (May 1, 2015), p.8.

Based upon the proofs presented, the Department did not establish that it properly denied the Petitioner's application and did not meet its burden of proof. The Noncooperation evidence provided by the Department did not establish a third sanction had been imposed; and thus, denial of the current application on that basis was not demonstrated by the proofs and documentation presented by the Department. Exhibit B.

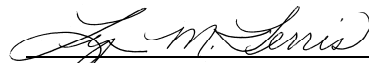
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Petitioner's current application due to the imposition of a third 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. The Department shall re-register and re-process the Petitioner's most recent FIP application, which was denied as of October 1, 2015, by the Notice of Case Action issued September 11, 2015, and shall determine Petitioner's ongoing eligibility and deferral if any.
2. The Department shall issue a written Notice to the Petitioner regarding its eligibility determination.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/3/2015**

LMF/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

