



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: March 9, 2016
MAHS Docket No.: 16-000624
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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; 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 March 3, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS adversely affected Petitioner's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's eligibility for Family Independence Program (FIP).

The third issue is whether MDHHS properly reduced Petitioner Food Assistance Program (FAP) eligibility.

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 and FAP recipient.
2. Petitioner was an ongoing compliant PATH participant.

3. On [REDACTED], MDHHS mailed Petitioner a Notice of Case Action (Exhibit 1, pp. 1-6) initiating a termination of Petitioner's FIP eligibility, and a reduction of FAP eligibility, both actions to be effective February 2016.
4. On [REDACTED], Petitioner requested a hearing to dispute the termination of FIP eligibility, the reduction of FAP eligibility, and an unspecified action concerning MA eligibility.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of MA eligibility. Petitioner testified she thought MDHHS stopped her MA eligibility at the same time MDHHS initiated adverse actions against her FIP and FAP eligibility. MDHHS denied that Petitioner's MA eligibility was threatened.

MDHHS presented a Notice of Case Action dated January 7, 2016 (Exhibit 1, pp. 1-6). The notice listed adverse actions against Petitioner's FIP and FAP eligibility. A threat to Petitioner's MA eligibility was not indicated. After examining the notice, Petitioner conceded she mistakenly thought MDHHS threatened her MA eligibility. Petitioner's hearing request will be dismissed concerning a closure of MA benefits as there was no such threat.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FIP benefits. The presented Notice of Case Action verified the reason for FIP termination was Petitioner's alleged failure to participate in employment-related activities. MDHHS testimony clarified Petitioner's specific failure concerned PATH participation.

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 2015), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

PATH is administered by the Workforce Development Agency, 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.* All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. *Id.*, p. 4.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (May 2015), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause (see *Id.*, pp. 2-3):

- Appear and participate with the work participation program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a FSSP.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

MDHHS did not present a Notice of Noncompliance stating how Petitioner was noncompliant. MDHHS testimony alleged Petitioner failed to complete an application eligibility period (AEP). An AEP is a 21 day period which FIP applicants must complete before FIP benefits may be processed (see BEM 229).

MDHHS testimony conceded Petitioner was an ongoing FIP recipient and PATH participant. Thus, it was not clear how an alleged failure to complete an AEP could serve as a basis for noncompliance. Petitioner's alleged failure to complete an AEP was not a persuasive basis for noncompliance.

MDHHS provided a second basis for noncompliance. MDHHS testimony alleged Petitioner failed to submit logs for the weeks of [REDACTED] and [REDACTED].

MDHHS poorly detailed the allegation of noncompliance. MDHHS could not state what types of logs Petitioner failed to submit. Petitioner testified she thought the logs were intended to list her employment hours and wages as a hairdresser.

Petitioner testimony implied she was only late in submitting the logs because they were usually submitted on a Friday. During the weeks in dispute, PATH was closed on Friday due to a holiday. Petitioner also testified she offered the logs to MDHHS at a triage scheduled on [REDACTED].

MDHHS was unable to provide sufficient supporting details to justify a finding of noncompliance. For example, MDHHS could not state what dates Petitioner was supposed to submit the logs or explain why the logs could not be submitted after the dates.

Based on presented evidence, it is found that MDHHS failed to establish employment-related noncompliance. Accordingly, the FIP termination was improper.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a reduction of FAP benefits. The presented Notice of Case Action stated that the reduction was based on a FAP group member failing to participate in an employment-related activity. It was not disputed that the alleged failure was Petitioner's noncompliance with PATH.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two [sic] situations (BEM 233B (July 2013), p. 1.):

- Client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause.

- Client is active RCA and becomes noncompliant with a RCA program requirement.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. *Id.*

It was already found Petitioner was not noncompliant with PATH participation and that a FIP eligibility termination was improper. Accordingly, the corresponding FAP penalty and benefit reduction was also improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS did not threaten Petitioner's MA eligibility. Petitioner's hearing request is **PARTIALLY DISMISSED**.

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

- (1) reinstate Petitioner's FIP eligibility, effective February 2016, subject to the finding that Petitioner was compliant with employment-related activities;
- (2) reinstate Petitioner's FAP eligibility, effective February 2016, subject to the finding that Petitioner was compliant with employment-related activities;
- (3) remove any relevant disqualification from Petitioner's disqualification history; and
- (4) issue any benefits improperly not issued.

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

CG/hw



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]