



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 10, 2016
MAHS Docket No.: 16-006056
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 June 1, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application effective May 1, 2016?

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 [REDACTED], Petitioner applied for Cash Assistance (FIP) benefits. See Exhibit A, p. 5.
2. Upon processing Petitioner's eligibility, the Department determined that she was ineligible for benefits because she had previously received a third occurrence of noncompliance, which resulted in a lifetime sanction. See Exhibit A, p. 7.
3. Petitioner's first occurrence of noncompliance was effective [REDACTED]; second occurrence of noncompliance was effective [REDACTED].

- ██████████; and third occurrence of noncompliance was effective ██████████
██████████ ongoing. See Exhibit A, p. 7.
4. On ██████████ the Department sent Petitioner a Notice of Case Action notifying her that her FIP application was denied effective ██████████, due to her third occurrence of noncompliance. See Exhibit A, pp. 8-9.
 5. On ██████████, Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A (April 2016), p. 1. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. BEM 233A, p. 1. However, there are consequences for a client who refuses to participate without good cause. BEM 233A, p. 1.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. BEM 233A, p. 1. The goal is to bring the client into compliance. BEM 233A, p. 1.

The penalty for noncompliance without good cause is FIP Eligibility Determination Group (EDG) closure. BEM 233A, p. 8. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, the Department 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.

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

In the present case, the evidence established that Petitioner had already received her third occurrence of noncompliance, which resulted in the lifetime sanction of her case effective [REDACTED]. See Exhibit A, p. 7. In fact, the Department presented the original Notice of Case Action sent on [REDACTED], which notified Petitioner that her FIP benefits closed effective [REDACTED], ongoing, due to the third noncompliance. See Exhibit B, pp. 1-7.

In response, Petitioner testified as to the following: (i) she never received the Notice of Case Action dated [REDACTED], which notified her of the third noncompliance; and (ii) Petitioner indicated that she had a good cause reason for the third noncompliance, which involved a criminal matter, including her incarceration from [REDACTED]. See Exhibit 1, pp. 1-2.

Nonetheless, the undersigned lacks any jurisdiction in this hearing to address the third noncompliance that occurred back in June/July 2013. See BAM 600 (October 2015), pp. 1-6 (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days). In the present case, the third non-compliance that resulted in Petitioner's lifetime sanction occurred approximately three-years-ago. Petitioner cannot now challenge the third non-compliance three-years later. Petitioner's opportunity to dispute the third noncompliance and provide any good cause reasons has since past. See BAM 600, pp. 1-6. Therefore, Petitioner is not eligible for FIP benefits due to her lifetime sanction. See Exhibit A, p. 7.

In summary, because the evidence established that Petitioner received a third noncompliance, which resulted in her lifetime sanction and ineligibility of FIP benefits effective [REDACTED], the Department acted in accordance with Department policy when it denied her Cash Assistance (FIP) application effective [REDACTED]. See BEM 233A, pp. 1 and 8.

DECISION AND ORDER

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 acted in accordance with Department policy when it denied Petitioner's Cash Assistance (FIP) application effective [REDACTED].

Accordingly, the Department's Cash Assistance (FIP) decision is **AFFIRMED**.

EF/hw



Eric J. Feldman

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]