



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: [REDACTED]
MAHS Docket No.: 16-006840
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 [REDACTED], from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUES

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

The second issue is whether Petitioner established a dispute concerning 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 benefit recipient.
2. Petitioner was an ongoing Partnership. Accountability. Training. Hope. (PATH) participant.
3. Petitioner was compliant with PATH participation.

4. On [REDACTED], MDHHS mailed Petitioner a Notice of Noncompliance alleging Petitioner failed to participate in a required activity.
5. On [REDACTED], MDHHS terminated Petitioner's FIP eligibility, effective [REDACTED], and assessed an employment-related sanction against Petitioner.
6. On [REDACTED], Petitioner requested a hearing to dispute the FIP termination and an unspecified action concerning FAP benefits.

CONCLUSIONS OF LAW

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 FIP eligibility. Petitioner testified she only wanted a hearing to dispute a sanction concerning FIP benefits.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-5) dated [REDACTED], informing Petitioner of a termination of FIP eligibility. The written notice did not provide a basis for termination. It was not disputed the basis for termination was an employment-related sanction.

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 ([REDACTED]), p. 1. 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.*

[WEIs] must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *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.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.*, p. 1. Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.*

MDHHS presented a Notice of Noncompliance (Exhibit 1, pp. 6-7) dated [REDACTED]. The Notice of Noncompliance stated Petitioner was noncompliant for “No participation in required activity.”

MDHHS testimony indicated Petitioner was authorized to attend a \$6,500 “patient care tech” training in lieu of PATH attendance. Petitioner testified she was expected to attend training 5 days per week for 4-5 hours each day.

MDHHS presented a letter dated [REDACTED] (Exhibit 1, p. 9) from the business providing Petitioner’s training. The letter stated Petitioner was verbally warned about poor attendance and disruptive behavior before being dismissed from the first training module. The letter further stated Petitioner was allowed to return for the second training, but under a probationary status. The letter indicated Petitioner was dismissed from the second training module for again disrespecting an instructor and unacceptable attendance. The letter indicated Petitioner would be given a third and final opportunity though she’d be expected to attend class and follow school rules.

The presented letter depicted an unflattering portrayal of Petitioner. Petitioner came across as combative, insubordinate, and unreliable. Petitioner's statements during the hearing were consistent with the portrayal in the provided letter. Though it is not difficult to imagine Petitioner as noncompliant with attendance at training, evidence of noncompliance was lackluster.

Oddly, the letter from Petitioner's training institute listed the actual business as the author. If no person was willing to put their name to the letter, the content of the letter has to be taken with skepticism.

The presented letter also only indicated Petitioner was down to her last opportunity to comply with training rules. Petitioner was given a "final warning" but noncompliance following the warning was not indicated.

The presented letter also failed to specify adequate details of Petitioner's alleged noncompliance. For example, the letter alleged Petitioner had attendance problems, but it is not known if Petitioner was once mildly tardy or absent for several days. Petitioner was allegedly disruptive, but without specifics, it cannot be stated that the label was fairly applied.

During the hearing, MDHHS was asked if further details of Petitioner's noncompliance could be provided. MDHHS offered no additional details of Petitioner's alleged noncompliance.

It is found MDHHS failed to establish Petitioner was noncompliant with employment-related activities. Accordingly, the FIP benefit termination and corresponding disqualification were 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 FAP eligibility. Petitioner's hearing request provided no clarification of her FAP benefit dispute other than it concerned a denial. Petitioner initially testified she requested a hearing to dispute a denied FAP application and that she has not gotten FAP benefits for several months.

Petitioner's testimony contradicted the Notice of Case Action dated [REDACTED], which stated Petitioner was an ongoing FAP benefit recipient since [REDACTED]. MDHHS testimony indicated Petitioner received FAP benefits for [REDACTED] and [REDACTED]; Petitioner did not dispute the testimony. Presented evidence was suggestive that Petitioner did not request a hearing to dispute a denied FAP application.

Petitioner testified she did not intend to request a hearing about FAP benefits. She testified she only wanted a hearing about the employment-related sanction. Petitioner was repeatedly asked, "Do we need a hearing about food assistance?" Petitioner responded she did not understand the question and wanted someone else to explain the question to her.

It is appreciated various degrees of education, sophistication, and eloquence exist among clients. Petitioner did not appear to be incapable of explaining what MDHHS action prompted the filing of her hearing request. Petitioner's response to queries about her FAP hearing request motive were challenging, not challenged. Due to Petitioner's unwillingness to explain why a FAP benefit dispute was indicated, Petitioner's hearing request will be dismissed concerning FAP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to assert a FAP benefit dispute. 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. 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 [REDACTED], subject to the finding that Petitioner was compliant with employment-related activities;
- (2) supplement Petitioner for any benefits improperly not issued; and
- (3) remove any relevant employment-related sanction from Petitioner's disqualification history.

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 [REDACTED]; 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]

Petitioner

[REDACTED]