



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: July 13, 2016
MAHS Docket No.: 16-007554
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 July 5, 2016, from Lansing, Michigan. [REDACTED], the Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist (FIS) and [REDACTED], Family Independence Manager (FIM).

During the hearing proceedings, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-18.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application because she had a third sanction for this program, which resulted a lifetime disqualification?

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 applied for cash assistance on March 8, 2016. (Exhibit A, p. 1; FIS Testimony)

2. Based on the information provided on the application, such as not indicating Petitioner was disabled, FIP was the cash assistance program considered. (FIM and FIS Testimony)
3. Petitioner was previously determined to be non-compliant with employment and/or self-sufficiency related activities with non-cooperation dates of November 17, 2011, June 28, 2012, and October 22, 2013. (Exhibit A, p. 10)
4. There is a lifetime sanction for an individual's third occurrence of noncompliance. Bridges Eligibility Manual (BEM) 233A, May 1, 2015, p. 8.
5. On March 11, 2016, a Notice of Case Action was issued to Petitioner, in part, stating cash assistance was denied because for at least the third time, Petitioner or a group member failed to participate in employment and/or self-sufficiency related activities, therefore the group is no longer eligible for FIP. (Exhibit A, pp. 6-9)
6. On May 23, 2016, Petitioner filed a hearing request contesting the Department's action. (Exhibit A, pp. 4-5)

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.

BEM 233A addresses the sanction for noncompliance without good cause for FIP:

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.

Bridges Eligibility Manual (BEM) 233A, May 1, 2015, p. 8

BEM 261 addresses the SDA program:

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older.

Bridges Eligibility Manual (BEM) 261, July 1, 2015, p. 1.

In this case, Petitioner applied for cash assistance on March 8, 2016. (Exhibit A, p. 1; FIS Testimony) FIP was the cash assistance program considered based on the information provided on the application. (FIM and FIS Testimony)

Petitioner was previously determined to be non-compliant with employment and/or self-sufficiency related activities with non-cooperation dates of November 17, 2011, June 28, 2012, and October 22, 2013. (Exhibit A, p. 10) Under the above cited BEM 233A policy, there is a lifetime sanction for an individual's third occurrence of noncompliance. Therefore, on March 11, 2016, a Notice of Case Action was issued to Petitioner, in part, stating cash assistance was denied because for at least the third time, Petitioner or a group member failed to participate in employment and/or self-sufficiency related activities, therefore the group is no longer eligible for FIP. (Exhibit A, pp. 6-9)

Petitioner disagrees with the denial. Petitioner indicated she contests the third noncompliance determination. However, Petitioner's testimony acknowledged that in 2013 she got papers notifying her of the lifetime disqualification determination. (Petitioner Testimony) Petitioner would have had 90 days from the date of the written notice of case action to appeal that determination. See BAM 600, July 1, 2013, p. 4. There is no jurisdiction to review the October 2013 case action from Petitioner's May 23, 2016, hearing request.

Petitioner also questioned why her March 8, 2016, application was not considered for the State Disability Assistance (SDA) program. (Petitioner Testimony) During the hearing proceedings, the Department printed out a copy of Petitioner's application. The FIS and FIM explained that SDA was not considered based on the information Petitioner provided on the application. For example, Petitioner did not indicate that she was disabled on the March 8, 2016, application. (FIS and FIM Testimony)

Overall, the evidence supports the Department's determination to deny Petitioner's cash assistance application. Based on the information provided on the application, such as not indicating Petitioner was disabled, the Department properly considered eligibility under just the FIP program. Petitioner was not eligible for FIP because she was previously found to have three occurrences of noncompliance for this program, which results in a lifetime disqualification sanction.

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 FIP application because Petitioner had a third sanction for this program, which resulted in a lifetime disqualification.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/mc



Colleen Lack
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]

Petitioner

[REDACTED]