



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 3, 2016
MAHS Docket No.: 16-013940
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

ORDER OF DISMISSAL

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 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 2, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Specialist; and [REDACTED] Family Independence Specialist.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

On September 10, 2016, the Department sent Petitioner a Notice of Case Action closing Petitioner's Family Independence Program (FIP) case, effective October 1, 2016, based on a failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 5-10. Also, the Notice of Case Action notified Petitioner that her Food Assistance Program (FAP) benefits were reduced effective October 1, 2016 to October 31, 2016, to the amount of \$ [REDACTED] because she failed to participate in employment and/or self-sufficiency related activities without good cause. Exhibit A, pp. 5-10.

As a result of the Notice of Case Action dated September 10, 2016, on September 21, 2016, Petitioner filed a hearing request, disputing her FIP case closure and FAP reduction. Exhibit A, p. 2.

Shortly after commencement of the hearing, it was discovered that the Department reinstated Petitioner's FIP case for October 2016 and that she received her FIP allotment for October 2016. Moreover, both parties agreed that Petitioner's FAP benefits increased to the proper allotment for October 2016. It was determined that the Department provided Petitioner with another opportunity to attend her Partnership. Accountability. Training. Hope. (PATH) orientation. See Exhibit A, p. 13 (Case Comments). Thus, the Department reinstated her benefits and issued her supplements.

Based on the foregoing information and evidence, the undersigned Administrative Law Judge (ALJ) has concluded that Petitioner's hearing request dated September 21, 2016, is DISMISSED, for the reasons stated below:

First, Petitioner's FAP and FIP hearing issues has been resolved. As stated above, Petitioner's hearing request is based on the Notice of Case Action dated September 10, 2016, which addressed her FIP case closure and FAP reduction effective October 1, 2016. However, the Department reinstated her FIP benefits and increased her FAP benefits for October 2016. Thus, Petitioner is no longer an aggrieved party for October 2016 as she received her benefits. There is nothing further the undersigned ALJ can address for this hearing because her FAP and FIP hearing issues for October 2016 is moot.

Second, it was discovered that the Department subsequently closed Petitioner's benefits again effective November 1, 2016. On October 17, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FIP benefits would close effective November 1, 2016, based on her failure to participate in employment and/or self-sufficiency related activities without good cause. Exhibit B, pp. 5-8. The undersigned ALJ lacks the jurisdiction to address the closure of her FIP benefits effective November 1, 2016 because this occurred subsequent to the hearing request. Petitioner can request another hearing to dispute the closure of her FIP benefits effective November 1, 2016. See BAM 600 (October 2015), p. 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).


Third, on June 27, 2016, the Department sent Petitioner a Benefit Notice informing her that the Disability Determination Services (DDS) determined that she did not meet the disability requirements to be deferred from PATH. Exhibit A, pp. 44-45. Petitioner wanted to dispute the fact that DDS determined that her deferral was not granted. However, policy states that when a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A (October 2015), p. 18. When a client requests a hearing based on not being granted a deferral, be sure to advise the client at

the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. BEM 230A, p. 18. Be sure the client understands the time to file a hearing is once he/she receives a Notice of Case Action for noncompliance. BEM 230A, p. 18. Based on the above policy, the undersigned ALJ lacks any jurisdiction to address Petitioner's concerns that her deferral was not granted because it was not a loss of benefits, termination or negative action. See BEM 230 A, p. 18.

Accordingly, for the above stated reasons, Petitioner's FAP and FIP hearing request (dated September 21, 2016) is **DISMISSED**.

IT IS SO ORDERED.

EF/tm



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.

DHHS

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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]
[REDACTED]