



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: December 21, 2016
MAHS Docket No.: 16-016767

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 - 273.18; 42 CFR 431.200 - 431.250; 45 CFR 99.1 - 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 8, 2016, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] [REDACTED] testified on behalf of the Department. The Department submitted 10 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application?

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 October 11, 2016, Petitioner applied for FIP. [Dept. Exh. 2-3].
2. On October 17, 2016, the Department issued an Appointment Notice to Petitioner scheduling a mandatory in-person interview for October 24, 2016. [Dept. Exh. 4].

3. On October 25, 2016, the Department issued Petitioner an Application Notice denying Petitioner's FIP application for failure to meet the interview requirements. [Dept. Exh. 5].
4. On November 1, 2016, the Department received Petitioner's Request for Hearing. [Dept. Exh. 6-7].
5. On November 14, 2016, a Prehearing Conference was held which Petitioner attended. During the prehearing conference, Petitioner stated that she could not make it to the appointment on October 24, 2016, because she had trouble with her mail and received the notice on the day of the interview. Petitioner also stated she could not make the appointment because of her classes. Petitioner explained that her telephone had been turned off and she had used a neighbor's telephone to call the Department. [Dept. Exh. 10].

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 purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. The interview is an official and confidential discussion. Its scope must be limited to both of the following:

- Collecting information and examining the circumstances directly related to determining the group's eligibility and benefits. BAM 115, p 16 (10/1/2016).
- Offering information on programs and services available through MDHHS or other agencies. *Id.* at 17.

The person interviewed may be any responsible group member. The client may have any other person present. During the interview, the Department:

- States the client's rights and responsibilities; see BAM 105.
- Reviews and updates the application.
- Helps complete application items **not** completed when it was filed.

- Resolves any unclear or inconsistent information.
- Requests needed verification **not** brought to the interview.
- Advises the client of the SOP for processing.
- Makes services referrals if needed. *Id.* at 17.
- Confirms if the client needs a Mihealth card and/or Bridge card. *Id.* at 18.
- Advises cash and/or FAP clients how and when they receive benefits.

In addition to the above requirements, the following must be reviewed with **all** adult mandatory group members during the FIP interview:

- Work participation requirements. Identify any potential deferrals listed in BEM 230A.
- Direct support service opportunities, including transportation and child care required to attend the PATH orientation; see BEM 229.
- Family Self-Sufficiency Plan (FSSP) requirements listed in BEM 228.
- Penalties for non-compliance; see BEM 233A.
- FIP time limits; see BEM 234.
- Child support requirements; see BEM 255.
- Vendoring payments request; see BAM 425.
- Prohibited use of FIP to purchase lottery tickets, alcohol or tobacco. It is also prohibited for gambling, illegal activities, massage parlors, spas, tattoo shops, bail-bond agencies, adult entertainment, cruise ships or other nonessential items.
Id.

An interview is **not** required before denying assistance if it is clear from the application or other sources that the group is ineligible. *Id.* at 19.

The specialist must conduct a telephone interview at application with **each** adult mandatory group member before approving benefits. However, an in-person interview is conducted with **each** adult mandatory group member if one of the following exists:

- The client requests one.

- The specialist determines it is appropriate. For example, the specialist suspects information in the application may be fraudulent or the application signatures are questionable.
- If transportation or child care barriers that prevent the individual(s) from participating in PATH are identified on the DHS-1171, DHS-619, Jobs and Self-Sufficiency Survey, or during the FIP telephone interview. *Id.* at 20.

In this case, Petitioner applied for FIP benefits on October 11, 2016, but failed to appear for her scheduled appointment on October 24, 2016. During the hearing in the above captioned matter, Petitioner stated that she had used her mother's telephone and her neighbor's telephone to call the Department on October 24, 2016, to let them know she would be unable to make the appointment. Petitioner put her mother on speaker phone to agree that she had used her mother's telephone to call the Department.

Family Independence Manager [REDACTED] then read the notes from the prehearing conference into the record. Petitioner did not dispute Ms. [REDACTED]'s testimony.

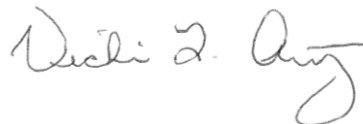
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The Administrative Law Judge found Petitioner's testimony less than credible.

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 application for FIP benefits.

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



Vicki Armstrong
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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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