



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: May 20, 2016
MAHS Docket No.: 16-004412
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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], [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. A witness, [REDACTED], also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, and [REDACTED] Eligibility Specialist/Family Independence Specialist. [REDACTED], Program Manager, and [REDACTED], Family Independence Manager, also appeared as witnesses for the Department.

ISSUE

Did the Department properly deny the Petitioner's Family Independence Program (FIP) Cash Assistance application due to the imposition of a lifetime sanction for noncompliance with Partnership.Accountability.Training.HOPE. (PATH) program requirements?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for FIP cash assistance on [REDACTED]. Exhibit 3.
2. The Department issued a Notice of Case Action dated [REDACTED], denying the Petitioner's FIP application effective [REDACTED], for the reason that "for at least the third time you or a group member (Petitioner) failed to participate in

employment and/or self-sufficiency/related activities... The group is no longer eligible for FIP benefits". Exhibit 4.

3. The penalty counter, Non-Cooperation Summary, presented as evidence by the Department indicated the following instances of a sanction being imposed for failure to participate in employment related activities: [REDACTED]; [REDACTED] and [REDACTED]. Exhibit 2.
4. The Department issued a Notice of Case Action on [REDACTED], imposing a lifetime sanction for the Petitioner's failure to participate in employment related activities effective [REDACTED]. Exhibit 5.
5. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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.

In this case, the Department denied the Petitioner's application for FIP cash assistance benefits due to the Petitioner having a lifetime sanction for three prior instances of failing to participate in work-related activities; the last sanction was imposed on [REDACTED].

At the hearing, the Department presented a Noncooperation – Summary that demonstrated three prior instances of sanctions being imposed. Exhibit 2. In addition, the Department presented the Notice of Case Action issued in [REDACTED], which advised the Petitioner at that time that she was no longer eligible to receive FIP benefits. Exhibit 5.

The Department also presented witnesses who were in charge of reviewing lifetime sanctions due to non participation in employment related activities for the Department at the time the Petitioner received her third sanction. These witnesses consisted of the Program Manager and the Family Independence Manager who reviewed lifetime sanctions at that time. They credibly testified that in all cases when a lifetime sanction

was imposed, a review of the penalty counter, the Work First or PATH case notes as well as a review with the Department PATH Coordinator was made. Because the closure occurred in [REDACTED] and the paper file was in closed files stored offsite, the actual case notes or case file could not be reviewed. Also, the Petitioner did not challenge the third sanction and did not seek review of the finding of no good cause when she received the Notice of Case Action as she believed she did not any longer require cash assistance benefits.

At the time of the closure in [REDACTED], Department policy then in effect required a final review be conducted when imposing a lifetime sanction under these circumstances. Department policy provided:

LIFETIME SANCTION FINAL REVIEW

Prior to certifying a case closure for a lifetime sanction, the case and noncooperation history must be reviewed to determine if the lifetime sanction is an appropriate closure. The review team consists of the FIM and PATH coordinator or the Program Manager and FIM. The reviewers need to review the following:

- The FAST and FSSP to determine if any identified barriers were not addressed.
- The One-Stop Management Information System (OSMIS) case notes and activities that correspond to Bridges sanction history.
- Case notes in the case file and on Bridges.
- Triage results are consistent with corresponding client statements or possible documentations of good cause.

The penalty counter and all noncooperation records in Bridges must also be reviewed for accuracy, confirming that the lifetime sanction is at the appropriate count.

Document in the case file and on the final noncooperation record in Bridges that the lifetime sanction final review was completed. Include in the comments the participants of the final review. This review must be completed within five business days from the date the triage was held.

BEM 233A (January 1, 2013), pp. 9-10.

The Department is no longer required to make this review as the Final Review policy has been removed from Department policy.

The Notice sent to the Petitioner in [REDACTED] notified the Petitioner that she was no longer eligible for FIP cash assistance and notified her of her right to appeal the Notice of Case Action determination. The Petitioner had 90 days to file a Hearing Request and did not do so. BAM 600 (February 1, 2013), p. 4. Thus, given the Petitioner's failure to appeal the Notice imposing the third sanction, the Petitioner is no longer entitled to a review of whether the third sanction was properly imposed. The only issue to be reviewed is whether the Department complied with the policy found in BEM 233A referenced above.

At the time of the petitioner's final FIP closure, the following penalties and consequences applied for noncompliance with program requirements:

**NONCOMPLIANCE
PENALTIES FOR
ACTIVE FIP
INDIVIDUALS AND
MEMBER ADDS**

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. BEM 233A, p.6 (Emphasis supplied).

In conclusion, after considering the testimony of all parties, the documentary evidence presented in this case by the Department and admitted as exhibits and the Department policy then in effect, it is determined by the undersigned that the Department properly

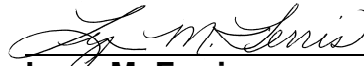
denied the Petitioner's FIP application for benefits dated [REDACTED], as the Petitioner is no longer eligible to receive FIP benefits and that the lifetime sanction was properly imposed in this case.

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 the Petitioner's FIP application dated [REDACTED].

DECISION AND ORDER

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

LMFjaf/



Lynn M. Ferris
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]

cc:

[REDACTED]