



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: June 20, 2016
MAHS Docket No.: 16-006607
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 June 15, 2016, from Lansing, Michigan. Petitioner appeared and testified. Family Independence Specialist [REDACTED] and Family Independence Manager [REDACTED] appeared for the Department and testified. Department's Exhibit A, pages 1-6 was admitted into evidence.

ISSUE

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

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 recipient of Family Independence Program (FIP) benefits.
2. On January 26, 2016, The Department received a Verification of Employment (DHS-38) which stated Petitioner was fired from an employment position she had been in since January 2010.
3. On May 5, 2016, Petitioner was sent a Notice of Noncompliance (DHS-2444) which stated she was non-compliant with employment and/or self-sufficiency activities on January 29, 2016 by refusing employment. Petitioner was also sent a

Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) would be sanctioned.

4. On May 12, 2016, Petitioner attended a triage meeting. The Department determined there was no good cause for the alleged non-compliance.
5. On May 12, 2016, Petitioner submitted a hearing request.

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.

Bridges Eligibility Manual (BEM) 233A Failure to Meet Employment and/or Self-Sufficiency- Related Requirements: FIP provides the following guidance to Department case workers:

DEPARTMENT PHILOSOPHY

FIP

MDHHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

Refusing suitable employment means doing **any** of the following:

Voluntarily reducing hours or otherwise reducing earnings.

Quitting a job (see exception below).

Exception: This does not apply if: PATH verifies the client changed jobs or reduced hours in order to participate in a PATH approved education and training program.

Firing for misconduct or absenteeism (not for incompetence).

Note: Misconduct sufficient to warrant firing includes any action by an employee or other adult group member that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is not limited to drug or alcohol influence at work, physical violence, and theft or willful destruction of property connected with the individual's work.

Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

The Verification of Employment (DHHS-38) (pages 3 & 4) does not provide any information on the reason that Petitioner was fired. During this hearing the Department representatives testified that they received no information from the employer on the issue of why Petitioner was fired. Petitioner testified that: she has worked there as a server since 2010; she has had the same schedule the whole time; she was pregnant and having some complications which meant she would not be able to lift much; she was told she had to change her work schedule to days that would not fit her child care arrangements so the employer told her she was being fired for not changing to the proposed new schedule.

The evidence in this record does not match the non-compliance criteria cited above as being fired for misconduct. 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it sanctioned Petitioner's Family Independence Program (FIP).

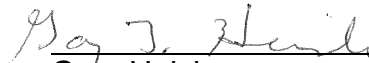
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's Family Independence Program (FIP), remove the sanction from her record, and supplement Petitioner any benefits she was otherwise eligible for but did not receive due to this incorrect action.

GH/nr



Gary Heisler
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]