



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: November 4, 2016
MAHS Docket No.: 16-014009
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 October 27, 2016, from October 27, 2016, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Petitioner's application for FIP Benefits?

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 [REDACTED], Petitioner applied for FIP benefits.
2. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her application for benefits had been denied because on three prior occasions she failed to participate in employment and/or self-sufficiency-related activities.
3. On [REDACTED], Petitioner filed a Request for Hearing disputing 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, Petitioner applied for FIP benefits on [REDACTED]. The Department testified that prior to this application, Petitioner had been sanctioned by the Department on three prior occasions. The dates of the sanctions were as follows: [REDACTED]; [REDACTED] and [REDACTED] with no end date. Under Department policy, a Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A (April 2016), p. 1.

The Department testified that it assessed Petitioner two separate sanctions on [REDACTED]. One sanction was assessed for failing to participate in employment related activities and the second sanction was assessed for failing to complete FAST. Under Department policy, failure to complete the FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. BEM 233A (May 2012), p.2. Because the policy states that clients may reapply at any time, it clearly did not intend a sanction be assessed for failing to complete FAST. As such, it is found that the Department improperly assessed the second sanction.

Petitioner argued that she did not receive the Notice of Non-Compliance and the Notice of Case Action dated [REDACTED]. However, Petitioner acknowledged that the documents were sent to the correct address and that her boyfriend may not have given her the documents. Additionally, Petitioner further acknowledged moving from one address to another without timely notifying the Department.

The Notice of Non-Compliance scheduled a triage date which would have allowed Petitioner to establish good cause for any noncompliance which may have existed. Because Petitioner failed to attend, the Department found that Petitioner failed to establish good cause. Petitioner's failure to ensure that she received the mail sent to the address provided to the Department does not provide a basis upon which good cause can be found. The Department therefore properly assessed the [REDACTED], [REDACTED] sanction. That sanction was not timely appealed and has therefore become final.

Because the Department improperly assessed the second sanction on [REDACTED], it also improperly determined that Petitioner had been sanctioned on three previous occasion before she submitted the [REDACTED] application for benefits. Had the [REDACTED] sanction been inputted as a second sanction, the sanction period would have expired prior to the [REDACTED] application, making Petitioner eligible for FIP benefits if otherwise qualified.

DECISION AND ORDER

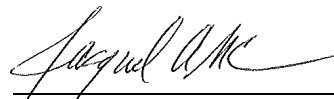
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's application for FIP benefits based upon three prior sanctions.

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. Re-register and reprocess Petitioner's [REDACTED] application for FIP benefits;
2. Issue any supplements Petitioner was entitled to receive but did not; and
3. Notify Petitioner of its decision in writing.

JM/hw



Jacquelyn A. McClinton

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]

Petitioner

[REDACTED]