



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: January 20, 2017
MAHS Docket No.: 16-018013
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 4, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied 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 [REDACTED], Petitioner applied for FIP benefits.
2. Petitioner has a history of 3 employment-related disqualifications.
3. On [REDACTED], MDHHS denied Petitioner's FIP application due to Petitioner's history of employment-related disqualifications.
4. On [REDACTED], Petitioner requested a hearing to dispute the FIP application denial and to dispute Food Assistance Program (FAP) eligibility.
5. Petitioner withdrew her FAP benefit dispute.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a determination of FAP eligibility. Petitioner testimony suggested the dispute concerned an anticipated termination of FAP benefits related to an alleged failure to verify information during a time Petitioner was hospitalized. Petitioner testified she no longer disputes FAP eligibility. Petitioner further testified she wished to withdraw her hearing request concerning FAP benefits. Petitioner's hearing request will be dismissed concerning Petitioner's now resolved FAP benefit dispute.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denial of FIP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner's FIP application as denied due to a history of three or more employment-related disqualifications.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1. [WEIs] must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (May 2015), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause (see *Id.*, pp. 2-3):

- Appear and participate with the work participation program or other employment service provider.

- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a FSSP.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.*, p. 1. 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 period depending on the number of previous non-compliance penalties. *Id.*

The penalty for noncompliance without good cause is FIP EDG closure. The individual penalty counter begins April 1, 2007. *Id.*, p. 8. 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.

Id.

MDHHS presented a summary of Petitioner's non-cooperation history (Exhibit 1, p. 3). The summary showed Petitioner was non-cooperative on [REDACTED], [REDACTED] and [REDACTED]. Each of the penalties concerned Petitioner's alleged failure to participate, without good cause, in an employment-related activity. The evidence was indicative that Petitioner is disqualified for life due to 3 previous employment-related disqualifications.

Petitioner presented a letter from a vocational school (Exhibit A, p. 1) dated [REDACTED]. The letter stated Petitioner was enrolled full-time in a medical assistance program from [REDACTED], [REDACTED]. It was also noted that Petitioner graduated from the program in October 2012.

Generally, full-time attendance at a vocational school is deemed by MDHHS to be an acceptable employment-related activity. It is curious why MDHHS determined Petitioner to be noncompliant during her school attendance. Though the matter is curious, it is ultimately irrelevant.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5-10) dated [REDACTED]. The notice informed Petitioner of a FIP benefit termination, effective August 2012. The stated reason for termination was a group member, for the third time, failed to participate in employment-related activities.

Petitioner's time to dispute the third employment-related disqualification was in 2012. Clients cannot dispute the merits of a disqualification beyond the 90 day timeframe, let alone the 4+ years waited by Petitioner.

During the hearing, Petitioner blamed MDHHS for failing to inform her of her right to dispute the disqualification. The excuse was not persuasive. The notice of disqualification happened to include a boilerplate hearing request (see Exhibit 1, pp. 9-10).

It is found Petitioner untimely requested a dispute concerning a 2012 FIP benefit disqualification. It is further found MDHHS properly denied Petitioner's FIP application based on Petitioner's history of 3 employment-related disqualifications.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her FAP benefit dispute. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FIP application dated [REDACTED], [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.



CG/hw

Christian Gardocki
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]