



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: February 24, 2017
MAHS Docket No.: 16-019306
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, an in person hearing was held on [REDACTED], from Madison Heights, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], PATH Coordinator, [REDACTED], Case Manager and [REDACTED], Program Manager.

ISSUE

Did the Department properly close Petitioner's FIP benefits effective [REDACTED] for failure to participate in employment and/or self-sufficiency-related activities?

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 a recipient of FIP benefits.
2. In [REDACTED], Petitioner submitted Education Logs to the Department.
3. The Department reviewed the logs and believed that the logs were duplicates of previously submitted logs.
4. The Department requested that Petitioner provide the original Education Logs.

5. Petitioner failed to do so and on [REDACTED] it sent Petitioner a Notice of Noncompliance which scheduled an appointment for [REDACTED] to discuss the matter.
6. Also on [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FIP benefits would close effective [REDACTED].
7. Petitioner appeared for the appointment on [REDACTED]
8. Following the conclusion of the meeting, the Department determined that Petitioner failed to establish good cause for her noncompliance.
9. 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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, the Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause. BEM 233A (April 2016), p. 1.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. *Id.* The goal is to bring the client into compliance. In this case, the Department testified that it closed Petitioner's FIP benefits effective [REDACTED]. In the [REDACTED] Notice of Case Action, the Department cited Petitioner's failure to participate in employment and/or self-sufficiency-

related activities... The Department testified that it considered Petitioner's failure to participate to be two-fold.

First, the Department asserted that it could not verify whether Petitioner had attended her classes because it had reason to believe that she submitted altered documentation. Petitioner testified that she did attend the classes that were identified on the Education Logs she submitted in [REDACTED] and [REDACTED]. Petitioner further presented emails from her professors which confirmed her attendance in the classes during the time frame in question. As such, Petitioner provided sufficient evidence that she actually attended the classes outlined in the Education Logs.

Next, the Department asserted that Petitioner submitted altered Education Logs. The Department based its assertion partly on Petitioner's history. Petitioner had previously been sanctioned for submitted altered documents. In the prior instance, Petitioner submitted information showing that she volunteered on specific dates. When the Department called the volunteering organization, the organization stated it had no record of Petitioner's volunteerism. Petitioner conceded that she submitted dates to the Department that did not coincide with the dates she submitted to the organization. However, Petitioner maintained that she did in fact volunteer during the dates she submitted to the Department.

The Department also based its assertion that Petitioner altered the Education Logs on the fact that the Education Logs appeared to be copied with changed dates and times. A review of the Education Logs demonstrated that the Department's suspicions were valid. However, while it is possible that the Education Logs may have been altered, it is equally possible that the Education Logs could have been authentic. Petitioner testified that she personally obtained signatures from each of her professors on the dates listed in the Education Logs. Because of the Department's suspicion, it sent Petitioner a Notice of Noncompliance which scheduled an appointment, also known as a triage, for [REDACTED]

Petitioner for the scheduled appointment. Petitioner testified at the hearing that she misplaced the original documents and that at the appointment, the Department would not accept anything less than the original documents. When questioned, the Department was unable to articulate what other documentation it would have accepted to demonstrate that the Education Logs had not been altered. While the undersigned understands the Department's suspicion, if the original documents were lost and Petitioner was not permitted to provide any alternative documentation, there was no way that Petitioner would be able to show that the documents were not altered.

In the earlier instance of altered documentation, the Department reasonably concluded that Petitioner had not volunteered during the hours she submitted. In the instant matter, there is no doubt that Petitioner actually attended the classes. Because the original document was reportedly lost and the ultimate goal of the program is to ensure that individuals are participating in employment and/or self-sufficiency-related activities, the

Department should have allowed Petitioner a reasonable opportunity to demonstrate that she actually attended the classes on the dates listed in the Employment Logs. Given that the Department failed to afford Petitioner an opportunity to resubmit the Education Logs or any other method designed to show that she actually attended the classes listed in the Education Logs, it is found that it improperly closed Petitioner's FIP benefits.

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 closed Petitioner's FIP benefits effective [REDACTED]

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 FIP benefits;
2. Issue supplements Petitioner was eligible to receive but did not; and
3. Notify Petitioner in writing of its decision.

JM/tlf



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]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]