



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: March 17, 2017
MAHS Docket No.: 17-001698
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 [REDACTED] from [REDACTED] Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Specialist, [REDACTED], Assistance Payment Worker, and [REDACTED], Case Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) effective [REDACTED]?

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. On [REDACTED], Petitioner informed the Department that she was no longer able to participate in its required program due to medical issues.
3. The Department provided Petitioner with a Medical Needs form to be completed by her doctor but did not provide Petitioner with a deadline to return the document.

4. On [REDACTED] [REDACTED] [REDACTED], the Department sent Petitioner a Warning letter of noncompliance as a result of her failure to participate in its required program.
5. The [REDACTED] correspondence scheduled a meeting for Petitioner to appear on [REDACTED].
6. Petitioner failed to appear.
7. On [REDACTED], the Department sent Petitioner a Notice of Noncompliance scheduling a meeting for [REDACTED] to allow Petitioner an opportunity to establish good cause for her non participation in its required program.
8. Petitioner appeared at the [REDACTED] meeting, but did not have the Medical Needs form completed by her doctor.
9. The Department found that Petitioner failed to establish good cause for noncompliance.
10. The Department closed Petitioner's FIP benefit effective [REDACTED].
11. On [REDACTED] 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.

Additionally, 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), pg. 1. All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. WEIs who are temporarily deferred are required to participate in activities that will help them overcome barriers and prepare them for employment or referral to an employment service provider. BEM 230A, pg 4. Persons with a mental or physical illness, limitation, or incapacity expected to last less

than three months and which prevents participation may be deferred for up to three months. The Department is required to verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - PATH, or other written statement from an M.D./D.O./P.A. BEM 230A, pg. 11.

In this case, Petitioner was participating in the PATH program as required. On [REDACTED], Petitioner informed the Department that she was unable to continue her participation in the PATH program for medical reasons. Petitioner was given a DHS-54E Medical Needs form. The form did not contain a date on which the form was required to be returned.

On [REDACTED], the Department sent Petitioner a noncompliance warning letter which advised that she was to appear for a meeting on [REDACTED] relating to her non-participation in the PATH program. Petitioner did not appear. Petitioner testified that she was unable to appear because she did not receive the notice of the meeting until [REDACTED]. As a result of Petitioner's failure to appear, the Department sent Petitioner a Notice of Noncompliance which scheduled a meeting which is known as a triage. The Notice of Noncompliance scheduled the meeting for [REDACTED].

Petitioner appeared at the [REDACTED] meeting. Petitioner did not have the form completed by her doctor. Petitioner testified that she had a doctor's appointment on [REDACTED] but was seen by a doctor other than her treating physician. Petitioner stated that the doctor at the [REDACTED] appointment refused to complete the form because he was not her treating physician. Petitioner further testified that she had a doctor's appointment scheduled for [REDACTED] at [REDACTED] but missed the appointment to attend the triage.

The Department confirmed that Petitioner stated at the [REDACTED] meeting that she had a doctor's appointment. The Department was unable to recall if Petitioner identified the time of the appointment during the meeting. The Department indicated it gave Petitioner until [REDACTED] on [REDACTED] to return the completed form. The Department testified that because Petitioner failed to return the completed form by [REDACTED] it found that Petitioner failed to establish good cause for her noncompliance. The Department further testified that Petitioner's FIP benefits closed effective [REDACTED] for failure to participate in the PATH program.

The facts in this case demonstrated that Petitioner was not provided with a due date to have the Medical Needs form completed by her doctor. It appears that [REDACTED] was the first available date Petitioner could have the form completed. The failure to have the form completed on [REDACTED] was not the result of any negligence on the part of Petitioner. The next available date Petitioner had to complete the form was [REDACTED], but she elected to attend the triage instead of keeping her doctor's appointment.

The Department acknowledged that on [REDACTED] it received a letter indicating that Petitioner had a medical issue that could potentially cause her to be unable to appear for work for a period of time. Therefore, the Department was on notice that Petitioner potentially had a medical issue which may prevent her from participating in the PATH program. The Department is required to send a negative action notice when:

1. The client indicates refusal to provide a verification, **or**
2. The time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130 (January 2017), P. 7.

It is found that Petitioner made reasonable efforts to have Medical Needs form completed but needed additional time that was not allowed by the Department. Additionally, the Department is required to provide notice to clients prior to the closure of benefits. BAM 220 (January 2017), p. 2. In this case, the Department conceded that it failed to provide Petitioner with notice that her FIP benefits would close effective [REDACTED]. As such, it is found that the Department improperly closed Petitioner's FIP benefits effective [REDACTED].

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 effective [REDACTED];
2. Issue supplements Petitioner was eligible to receive but did not effective [REDACTED] and [REDACTED];
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]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]