



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 10, 2017  
MAHS Docket No.: 17-001782  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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 four-way telephone hearing was held on March 6, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Success Coach; and [REDACTED], Success Mentor.

### **ISSUES**

Whether the Department properly closed Petitioner's case for Family Independence Program (FIP) benefits based on Petitioner's failure to participate in employment and/or self-sufficiency related activities without good cause?

Whether the Department properly calculated Petitioner's Food Assistance Program (FAP) benefits from December 1, 2016 to February 28, 2017?

### **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 FIP benefits.
2. Petitioner is an ongoing recipient of FAP benefits.

3. On October 10, 2016, an administrative hearing was held in which the undersigned Administrative Law Judge (ALJ) issued a hearing decision on October 14, 2016 and ordered the Department to do the following: (i) remove Petitioner's first FIP sanction/disqualification from her case; (ii) reinstate Petitioner's FIP case as of September 1, 2016; (iii) issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from September 1, 2016, ongoing; and (iv) notify Petitioner of its decision (Reg. No. 16-012713). Exhibit B, pp. 1-8.
4. The Department complied with the undersigned ALJ's order when it removed the sanction and issued her a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice on October 21, 2016, informing her to attend a PATH appointment on October 31, 2016. Exhibit A, p. 5.
5. Petitioner failed to attend the PATH appointment.
6. On November 9, 2016, the Department sent Petitioner a Notice of Case Action (DHS-1605) closing Petitioner's FIP case, effective December 1, 2016 to February 28, 2017, based on a failure to participate in employment and/or self-sufficiency related activities without good cause (first sanction). Exhibit C, pp. 1-2.
7. On November 14, 2016, the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on November 23, 2016. Exhibit A, p. 8.
8. Petitioner failed to attend the triage appointment and no good cause was found.
9. Petitioner's last FIP grant was [REDACTED] for November 2016. Exhibit C, p. 8.
10. Petitioner's FAP benefits decreased from [REDACTED] from November 2016 to [REDACTED] for December 2016, and [REDACTED] for January 2017 to February 28, 2017. Exhibit C, p. 3.
11. Even though Petitioner's FIP benefits closed from December 1, 2016 to February 28, 2017, the Department kept budgeting the last FIP grant amount of [REDACTED] as unearned income in the FAP budget. Exhibit C, pp. 8 and 12-14.
12. On January 31, 2017, Petitioner filed a hearing request, protesting her FIP benefits, FAP allotment, and her Child Development and Care (CDC) program benefits. Exhibit A, pp. 2-4.

### **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 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. The Department (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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

### **Preliminary matter**

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) her CDC benefits; (ii) the closure of her FIP benefits effective December 1, 2016; and (iii) the calculation of her FAP benefits from December 1, 2016 to February 28, 2017. Exhibit A, pp. 2-4. The undersigned ALJ addresses Petitioner's concerns below:

### **CDC program**

In the present case, Petitioner filed a hearing request in which she protested her CDC benefits. Shortly after commencement of the hearing, Petitioner indicated that her CDC issue has been resolved and she is no longer disputing this program. As such, Petitioner's CDC hearing request is DISMISSED.

### **FIP benefits**

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

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A (April 2016), p. 2. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: failing or refusing to appear and participate with PATH or other employment service provider, participate in employment and/or self-sufficiency-related activities etc...See BEM 233A, pp. 2-3.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person and must be verified. BEM 233A, p. 4. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, comparable work, long commute or clients not penalized. BEM 233A, pp. 4-7.

In the present case, the undersigned ALJ previously issued a hearing decision in which it ordered the Department to remove Petitioner's FIP sanction and reinstate her FIP benefits as of September 1, 2016 (Reg. No. 16-012713). Exhibit B, pp. 1-8. The Department subsequently complied with the undersigned ALJ's order when it removed the sanction and issued her a PATH Appointment Notice on October 21, 2016, informing her to attend a PATH appointment on October 31, 2016. Exhibit A, p. 5. Petitioner failed to attend the PATH appointment. On November 14, 2016, the Department mailed Petitioner a Notice of Noncompliance scheduling Petitioner for a triage appointment on November 23, 2016. Exhibit A, p. 8. It should be noted that the Notice of Noncompliance had specialist comments, which stated the following, "[y]our triage for 'No initial contact w/MWA' has been rescheduled from November 17, 2016 to November 23, 2016..." Exhibit A, p. 7. Petitioner failed to attend the triage appointment and no good cause was found. As such, Petitioner's first FIP sanction remained for the period of December 2016 to February 2017.

In response, Petitioner testified that she should have not been eligible for the FIP program and therefore, should have not been referred and/or sanctioned. She testified that she applied for CDC benefits in late October 2016 and submitted proof of her employment. With this submission of her employment, Petitioner argued the Department should have redetermined her eligibility for FIP benefits and rendered her ineligible for the FIP program. She testified that prior to receiving the PATH Appointment Notice dated October 21, 2016, she was contacted by an employer for an interview and therefore, she was unable to attend the PATH appointment on October 31, 2016. She testified that the PATH program called her to inform her that she failed to attend her appointment. She testified that she then left a voicemail for her caseworker on the day of her appointment that she did not attend. In regards to the triage, she testified that she was unable to attend to due child care issues and that she only

received the notice 2-3 days prior to the scheduled triage date. She also testified that she never requested any closure of her FIP program.

Based on the foregoing information and evidence, the Department properly closed Petitioner's FIP benefits effective December 1, 2016, in accordance with Department policy. The undersigned ALJ does not find Petitioner's arguments persuasive. If Petitioner never wanted the FIP program, then she should have requested her case be closed prior to the noncompliance. See BAM 220 (October 2016), p. 19 (case closure procedures when requested). However, Petitioner failed to do so in this instance. Instead, the Department complied with the undersigned ALJ's previous hearing decision to reinstate her FIP benefits (Reg. No. 16-012713). Exhibit B, pp. 1-8. The Department subsequently issued her a PATH Appointment Notice and she failed to attend her scheduled appointment on October 31, 2016. Exhibit A, p. 5. As such, the evidence established that Petitioner was in non-compliance with the PATH program because she failed to attend her PATH appointment scheduled for October 31, 2016. BEM 233A, pp. 2-3 (failed to participate in employment and/or self-sufficiency-related activities). Moreover, Petitioner failed to present any good cause reason for her non-compliance.

Accordingly, the Department acted in accordance with Department policy when it found Petitioner in non-compliance with the PATH program and closed her benefits effective December 1, 2016.

### **FAP benefits**

Additionally, Petitioner's main concern in this case was the calculation of her FAP benefits for the period of December 1, 2016 to February 28, 2017. Even though Petitioner's FIP benefits closed from December 1, 2016 to February 28, 2017, the Department kept budgeting her last FIP grant amount of [REDACTED] as unearned income in the FAP budget. Exhibit C, pp. 8 and 12-14. Petitioner argued that the Department should not have been budgeting any FIP benefits in her FAP budget for the period of December 1, 2016 to February 28, 2017, when she was not even receiving any FIP grant during this period. However, Petitioner is incorrect. Policy states that the Department applies policies associated with a FIP related noncompliance and budgets the *Last FIP* grant amount into the FAP budget. BEM 233B (July 2013), p. 3. The FIP grant is removed from the FAP budget at the end of the FIP penalty period. BEM 233B, p. 3. In the present case, the evidence established that Petitioner's last FIP grant prior to the non-compliance was [REDACTED] for November 2016. Exhibit C, p. 8. Per policy, the Department will keep budgeting Petitioner's last FIP grant of [REDACTED] for the sanction period of December 1, 2016 to February 28, 2017, even though she never received FIP benefits during this time period. See BEM 233B, p. 3. The Department provided credible evidence showing that it budgeted [REDACTED] of her FIP benefits as unearned income in the FAP budget for December 1, 2016 to February 28, 2017, in accordance with Department policy. Exhibit C, pp. 8 and 12-14. And for Mach 1, 2017, the Department properly removed the FIP grant from the FAP budget at the end of the FIP

penalty period. See Exhibit C, p. 15 and BEM 233B, p. 3. Petitioner did not dispute any other calculation in her FAP budget.

Accordingly, the undersigned ALJ finds that the Department properly budgeted Petitioner's last FIP grant of [REDACTED] in the FAP budget during the sanction period of December 1, 2016 to February 28, 2017 and therefore, properly calculated Petitioner's FAP benefits from December 1, 2016 to February 28, 2017.


**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 acted in accordance with Department policy when it (i) properly closed Petitioner's FIP benefits effective December 1, 2016 to February 28, 2017; and (ii) properly calculated Petitioner's FAP benefits from December 1, 2016 to February 28, 2017.

Accordingly, the Department's FAP and FIP decision is **AFFIRMED**.

**IT IS ALSO ORDERED** that Petitioner's CDC hearing request is **DISMISSED**.

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**Eric J. Feldman**  
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]

CC: [REDACTED]  
[REDACTED]