



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: March 28, 2017
MAHS Docket No.: 17-001812
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 March 8, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] PATH Coordinator and [REDACTED], Case Manager.

ISSUE

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

Did the Department properly reduce Petitioner's Family Assistance Program (FAP) benefits 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 applied for FIP, FAP and Medical Assistance benefits on [REDACTED], [REDACTED].
2. Petitioner and her husband were initially deferred participation in employment-related activities based upon her disability and because Petitioner's husband was her caretaker.

3. On [REDACTED], Petitioner submitted a completed Medical Needs form for herself and a separate completed form for her husband.
4. Petitioner's Medical Needs form stated that she was unable to work and further stated that she would be unable to work for the remainder of her life.
5. Petitioner's husband's Medical Needs form indicated that he was able to work with limitations and also indicated that he was only required to care for his wife one to two hours per day.
6. Petitioner's husband was taken out of deferral status and was provided with an appointment date to begin his participation in employment related activities.
7. Petitioner's husband failed to appear for the scheduled appointment.
8. On February 8, 2017, the Department met with Petitioner to allow her an opportunity to provide good cause for her husband's failure to participate in employment related activities.
9. There was no additional information provided at the [REDACTED] meeting and as a result, the Department found that Petitioner's husband failed to establish good cause for noncompliance.
10. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FIP benefits would close effective [REDACTED] and her FAP benefits would decrease effective [REDACTED].
11. 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 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.

FIP

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 applied for FIP, FAP and Medical Assistance benefits on [REDACTED]. Petitioner began receiving benefits. Petitioner and her husband were deferred from the PATH program. Petitioner was deferred based upon her disability and Petitioner's husband was deferred as her caretaker. In January 2017, the deferral ended. Petitioner and her husband were referred to the PATH program but did not attend. As a result of the non-attendance, the Department sent Petitioner a Notice of Noncompliance which requested that Petitioner and her husband appear at a meeting to establish good cause for noncompliance in the PATH program.

On [REDACTED], Petitioner submitted a completed Medical Needs form for herself and a separate completed form for her husband. Petitioner's Medical Needs form stated that she was unable to work and further indicated that she would be unable to work for the remainder of her life. Petitioner's husband's Medical Needs form indicated that he was able to work with limitations. Petitioner argued that the form did not allow for adequate space to describe her husband's limitations. The form indicated that Petitioner's husband was unable to lift more than 25 pounds and could not stand and/or walk about 6 hours in an 8-hour workday. Under Department policy, recipients determined as work ready with limitations are required to participate in PATH as defined by DDS¹. BEM 230A (October 2015), p. 13.

Petitioner testified to the specific limitations of her husband. Among limitations listed by Petitioner included that her husband could not get out of bed prior to 8:00 a.m.; is

¹ DDS refers to Disability Determination Service which was previously known as Medical Review Team (MRT).

required to sleep and/or rest for an hour after eating; and sometimes is unable to perform any tasks for days at a time. Petitioner's husband's treating physician, with complete knowledge of her husband's condition, indicated that he was able to work with limitations. Petitioner indicated that the doctor's medical assistant provided his card and stated that the Department could contact him if it had any questions. Given that the form was signed by Petitioner's treating doctor, outlined specific limitations and did not note anywhere on the form that the doctor needed to provide additional information, it does not appear that the Department would have had any additional questions necessitating the need to contact the medical assistant.

The Department held a meeting on [REDACTED]. Petitioner appeared at the meeting. Her husband did not. The Department explained to Petitioner that because the Medical Needs form indicated that her husband could work with limitations, he was required to attend PATH. The Department found that Petitioner's husband failed to establish good cause and therefore imposed a sanction which closed the group's FIP case for three months. Under Department policy, the penalty for noncompliance without good cause is FIP EDG closure. 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. BEM 233A (April 2016), p. 8.

Additionally, the sanction period begins with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member-add who is a WEI mandatory participant. *Id.*

Petitioner's husband is considered work eligible individual based upon the Medical Needs form and is a mandatory group member as he is her spouse. As such, the Department properly closed Petitioner's FIP case for three months for his failure to participate in employment related activities.

FAP

Under Department policy, noncompliance without good cause, with employment requirements for FIP/RCA may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233A (July 2013), p. 1. In this case, Petitioner's husband was an active FIP and FAP recipient on the date of noncompliance. The Department is required to disqualify a FAP group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.
- The client is **not** deferred from FAP work requirements;
- The client did not have good cause for the noncompliance. BEM 233B, p. 3.

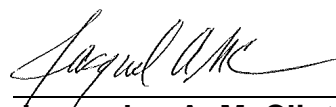
Therefore, the Department properly disqualified Petitioner's husband from the FAP group and properly reduced the group's FAP allotment as a result of the reduction in group size.

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 assessed a three month sanction and closed Petitioner's FIP benefits effective [REDACTED]. 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, also finds that the Department acted in accordance with Department policy when it assessed a one month sanction and decreased Petitioner's FAP benefits effective [REDACTED].

Accordingly, the Department's decision is **AFFIRMED**.

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]