



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: June 13, 2017  
MAHS Docket No.: 17-004188  
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, an in-person hearing was held on [REDACTED] from [REDACTED] Michigan. The Petitioner was represented by the Authorized Hearing Representatives (AHRs)/Counsel, [REDACTED] from [REDACTED]; and [REDACTED], Law Clerk from [REDACTED]. Petitioner was present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented Assistant Attorney General (AAG) [REDACTED], who participated by telephone for the hearing. Also, [REDACTED], Family Independence Specialist; [REDACTED], Family Independence Manager; and [REDACTED], Family Independent Specialist, were present for the hearing and provided testimony.

**ISSUE**

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?

**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. [Exhibit A, pp. 17-20.]

2. In the application, Petitioner reported that she was pregnant, with an expected due date of [REDACTED]. [Exhibit A, p. 20.]
3. Petitioner was approved for FIP benefits for [REDACTED].
4. On [REDACTED], the Department sent Petitioner a Family Automated Screening Tool (FAST) Mandatory Notice (DHS-1536), which informed Petitioner that she must complete the FAST within 30 days of this notice and the Family Self-Sufficient Plan (FSSP) within 90 days of this notice. [Exhibit A, pp. 8-9.]
5. Petitioner did not complete the FAST notice within 30-days.
6. On [REDACTED], the Department mailed Petitioner a Notice of Noncompliance because of her failure to complete the FAST and scheduled her for a triage appointment on [REDACTED]. [Exhibit A, pp. 10-11.]
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action closing Petitioner's FIP case, effective [REDACTED], based on a failure to participate in employment and/or self-sufficiency related activities without good cause (lifetime sanction). [Exhibit A, pp. 12-15.]
8. On [REDACTED], Petitioner attended her triage appointment; however, the Department found that Petitioner failed to present any good cause for the non-cooperation. [Exhibit A, p. 16.]
9. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, p. 2.]

### **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.

As a preliminary matter, Petitioner's AHR requested to submit a post-hearing brief; however, the undersigned Administrative Law Judge (ALJ) denied the request.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A (October 2015), p. 1. The recipients of FIP engage in employment and self-

sufficiency related activities so they can become self-supporting. BEM 230A, p. 1. 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, p. 1.

FAST is a Web-based initial screening to identify the strengths and needs of FIP families. BEM 228 (October 2015), p. 2. Completing a FAST is one of the FIP participant's first required work-related activities and establishes a foundation for the development of a successful FSSP. BEM 228, p. 2. All WEIs and non WEI's as defined in BEM 228 are required to complete the FAST within 30 days and participate in the development of the FSSP within 90 days of the FAST/FSSP notice. BEM 228, p. 2.

At the hearing, the Department argued that Petitioner failed to complete the FAST survey within 30-days of the notice, which therefore, constituted noncompliance with employment-related activities. Petitioner did not dispute that she did not complete the FAST survey. Although, she and her AHR argued that she spoke to a caseworker who informed her that she was deferred from competing the FAST survey because she was on medical leave due to her pregnancy. [Exhibit A, p. 2.] The Department subsequently sent her a Notice of Noncompliance for her failure to complete the FAST survey, a triage was held, but the Department found no good cause for her noncompliance. As a result, Petitioner's FIP benefits closed for a lifetime sanction as this was her third episode of a non-compliance.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A, p. 2. Noncompliance of applicants, recipients, or member adds without good cause includes failing or refusing to complete a FAST, as assigned as the first step in the FSSP process. BEM 233A, p. 2. Exception, do not apply the three-month, six-month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. BEM 233A, p. 3. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. BEM 233A, p. 3. Clients can reapply at any time. BEM 233A, p. 3.

Applying the above policy, while Petitioner's failure to complete the FAST survey constituted a noncompliance with employment-related activities, BEM 233A provides for failure to complete a FAST survey, the Department closes the client's FIP case due to a failure to provide requested verification, and the client can reapply at any time. BEM 233A, p. 3. Family Independence Manager ██████████ testified that if a client has a new Cash Assistance application that has yet to be activated and no benefits issued and the FAST survey is not completed, then it is a closure and the client can reapply. But, ██████████ indicated if benefits have been approved, completing the FAST survey is mandated and if it has not been completed, then the case would be closed based on a non-compliance. When the undersigned quoted the above exception policy during the hearing, ██████████ testified that the ineligible grantee is not able to get a non-compliance for a failure to complete FAST because they are not a recipient of the Cash Assistance program themselves. ██████████ further testified an eligible grantee

(i.e., Petitioner) is a recipient and is held to the compliance regulations. However, the undersigned disagrees. The first sentence states not to apply any of the penalties to ineligible caretakers, clients deferred for lack of child care, and disqualified aliens. BEM 233A, p. 3. The following sentence states that a failure to complete a FAST or FSSP results in closure of FIP benefits due to failure to provide requested verification. See BEM 233A, p. 3. The undersigned finds that these are separate exceptions to the non-compliance with employment and/or self-sufficiency-related activities section. What the undersigned means is that if a client fails to complete the FAST or FSSP, this results in closure of the FIP benefits based on a failure to provide requested verification and this closure reason is not only limited to ineligible caretakers, clients deferred for lack of child care, and disqualified alien. See BEM 233A, p. 3. Accordingly, the undersigned finds that the Department did not act in accordance with Department policy when it closed and sanctioned Petitioner's FIP case for failure to comply with employment-related activities rather than closing Petitioner's FIP case for a failure to provide requested verifications. BEM 233A, pp. 2-3, and see also BEM 228, p. 21.

### **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 improperly closed Petitioner's FIP benefits effective [REDACTED].

Accordingly, the Department's FIP 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. Remove Petitioner's FIP lifetime sanction (third episode of noncompliance) from her case;
2. Reinstate Petitioner's FIP case as of [REDACTED];
3. Issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from [REDACTED]; and
4. Notify Petitioner of its decision.

EJF/jaf



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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

**Counsel for Respondent**  
*Via email*

[REDACTED]

**Counsel for Petitioner**  
*Via email*

[REDACTED]

**Petitioner**  
*Via USPS*

[REDACTED]

**DHHS**  
*Via email*

[REDACTED]