



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 21, 2017
MAHS Docket No.: ██████████ 17-006054
Agency No.: ██████████
Petitioner: ██████████

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 ██████████, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by ██████████ Assistance Payment Worker.

ISSUE

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

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 ██████████ Petitioner applied for FIP benefits.
2. Petitioner was approved and was further deferred from attending the PATH program due to her disability.
3. On ██████████, the Department sent Petitioner a Notice of Case Action which informed Petitioner that her FIP benefits would close effective ██████████ and further informed Petitioner that she was subject to a six-month sanction for failing to participate in work related activities.

4. On [REDACTED], Petitioner sent her assigned worker an email requesting a hearing to dispute the Department's actions.
5. Petitioner's Request for Hearing was not processed.
6. On [REDACTED], Petitioner submitted a second 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.

As a preliminary matter, the Department sent Petitioner a Notice of Case Action on [REDACTED] which informed Petitioner that her FIP benefits would close effective [REDACTED] and further informed Petitioner that she was subject to a six-month sanction for failing to participate in work related activities. On [REDACTED], Petitioner sent her assigned worker an email requesting a hearing to dispute the Department's actions. The Department failed to set the matter for hearing. On [REDACTED], Petitioner submitted a second request for hearing. It is found that the undersigned has jurisdiction to hear decide the issues in this matter as the Department failed to process Petitioner's first Request for Hearing.

Additionally, Partnership. Accountability. Training. Hope. (PATH) participants must complete the 21-day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (October 2015), pp. 1. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, p. 6. This requires that the client (i) begin the AEP by the last date to attend as indicated on the PATH Appointment Notice, (ii) complete the PATH AEP requirements, and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p.1. Completion of a Family Automated Screening Tool (FAST) is also required. The participant's failure to submit a FAST within 30 days of the notice date is a failure to meet eligibility requirements BEM 228 (October 2015), p. 21.

Further, Department policy requires that at intake, redetermination, or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability

to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges while a disability determination is made. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A (October 2015), p. 11.

In this case, Petitioner applied for FIP benefits on [REDACTED]. Soon after the application was submitted, Petitioner claimed to have a disability which was expected to last more than 30 days. Petitioner was deferred from PATH. Following the conclusion of the 90 days, the Department stated that it sent Petitioner two notices instructing her to complete a FAST. However, the Department failed to provide a copy of the documents that were sent to Petitioner regarding the need to complete the FAST.

Petitioner testified that she talked with her worker and was provided with a list of documents she needed to provide and/or complete. Petitioner indicated that at no time did her worker inform her that she needed to complete the FAST. The evidence at the hearing revealed that the Department failed to provide any notice that it informed Petitioner of her obligation to complete the FAST. Accordingly, Petitioner's testimony that she was unaware of the need to complete the FAST is accepted as credible. Petitioner's lack of knowledge of the need to complete the FAST is sufficient to establish good cause for failing to participate in employment related activities. Therefore, it is found that the Department improperly closed Petitioner's FIP benefits effective [REDACTED] and improperly assessed a sanction in this matter.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefits effective [REDACTED] and assessed a six-month sanction.

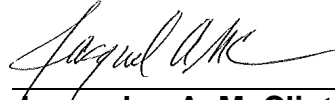
Accordingly, the Department's decision is **REVERSED**.

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. Determine whether Petitioner should be deferred from the PATH program or is required to participate in the PATH program;
3. Remove the six-month sanction from [REDACTED] relating to Petitioner's FIP benefits; and

4. 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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]