



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: April 28, 2017
MAHS Docket No.: 17-002276
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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] [REDACTED], from Detroit, Michigan. Petitioner appeared via telephone and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) benefits.

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.
2. Petitioner's application alleged a long-term disability.
3. On [REDACTED], MDHHS mailed Petitioner a Medical Determination Verification Checklist requesting, among other items, a DHS 49-F and a DHS-1555
4. On [REDACTED] MDHHS mailed Petitioner a PATH Appointment Notice informing Petitioner of an obligation to attend PATH on [REDACTED].

5. The due date to return documents was [REDACTED].
6. On [REDACTED], Petitioner failed to attend PATH.
7. On [REDACTED] MDHHS denied Petitioner's application due to Petitioner's failure to attend PATH.
8. On [REDACTED] Petitioner requested a hearing to dispute the FIP application denial.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Prior to a substantive analysis of Petitioner's hearing request, it should be noted that Petitioner's hearing request indicated a need for special arrangements in order to participate in the hearing; specifically, Petitioner noted she could not drive and wanted to appear by telephone. Petitioner's request was granted and the hearing was conducted accordingly.

Petitioner requested a hearing to dispute the denial of a FIP application dated [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 21-22) dated [REDACTED]. The notice stated Petitioner's application was denied, in part, due to Petitioner's failure to attend PATH.

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), p. 1. PATH is administered by the Workforce Development Agency, State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

[WEIs] must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.* All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. *Id.*, p. 4.

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 (see *Id.*, pp. 2-3):

- Appear and participate with the work participation program or other employment service provider.
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a FSSP.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.*, p. 1. Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.*

MDHHS presented a PATH Appointment Notice (Exhibit 1, p. 8) dated [REDACTED]. The notice informed Petitioner of an appointment on [REDACTED] to attend PATH.

Petitioner testimony conceded that she failed to attend PATH. A failure to attend PATH justifies a denial of Petitioner's FIP application only if Petitioner was required to attend PATH. Petitioner testimony implied she should have been deferred from PATH participation because of a long-term disability.

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. BEM 230A (October 2015) p. 11. Conditions include medical

problems such as mental or physical injury, illness, impairment or learning disabilities. *Id.* MDHHS policy prescribes a 3-step process.

MDHHS describes the first step of PATH deferral as “Establishment of disability” (see *Id.*, p. 12). Once a client claims a disability he/she must provide MDHHS with verification of the disability when requested. *Id.* The verification must indicate that the disability will last longer than 90 calendar days. *Id.* If the verification is not returned, a disability is not established. *Id.*

MDHHS describes the second step of the PATH deferral as “Defining the Disability.” For verified disabilities over 90 days, see BAM 815, Medical Determination and Disability Determination Service, for the policy requirements in obtaining a medical certification from DDS. *Id.*

The third step in the PATH deferral process is “Referral to DDS.” [MDHHS is to] send the completed required forms along with any medical evidence provided, to the DDS to begin the medical development process. *Id.*

[For medical determination applications, MDHHS is to] complete a DHS-3503-MRT, Medical Determination Verification Checklist, indicating the following verifications [are] required: DHS-49-F, DHS-1555, DHS-3975, Reimbursement Authorization (for state-funded FIP/SDA only)[, and] verification of SSA application/appeal. BAM 815 (January 2017), p. 4.

The client or authorized representative must complete all sections of the DHS-49-F, Medical-Social Questionnaire. *Id.* This form is mandatory. *Id.*

The client or authorized representative must sign the DHS-1555, Authorization to Release Protected Health Information, to request existing medical records. *Id.* This form is mandatory. *Id.*

At application or medical review if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability. *Id.*, p. 2. [MDHHS is to] deny the application or place an approved program into negative action for failure to provide required verifications. *Id.*

MDHHS presented a Medical Determination Verification Checklist (Exhibit 1, pp. 6-7) dated [REDACTED]. The checklist requested various documents from Petitioner including an Authorization to Release Protected Health Information (DHS-1555), a Medical Social Questionnaire (DHS 49-F), and proof of a pending Social Security Administration application for disability. It was not disputed that Petitioner returned at least some of the requested documents.

MDHHS presented two different Medical Needs-PATH (Exhibit 1, pp. 9-12) forms. Both forms included statements from Petitioner’s physician that Petitioner had restrictions expected to last 90 days.

MDHHS presented 3 pages of a Medical- Social Questionnaire (Exhibit 13-15). The questionnaire is known to be a 4-page form. The third page of the questionnaire is known to ask clients about work history, education history, and medical testing history was not included. MDHHS presented the first 2 pages of a different Medical- Social Questionnaire, including a duplicate page from the other questionnaire's pages (see Exhibit 1, pp. 16-18). MDHHS alleged these documents encompassed the returned Medical-Social Questionnaire from Petitioner.

MDHHS presented a document listing various information about a pending SSA application. The record was sufficient verification that Petitioner had a pending SSA application.

Petitioner testified she is certain that she returned all requested documents to MDHHS. Petitioner provided no verification of her testimony.

MDHHS testified Petitioner failed to return a DHS-1555 and the third page of a Medical-Social Questionnaire. During the hearing, MDHHS was asked to check Petitioner's electronic case file to see if Petitioner returned any of the allegedly missing forms. Two MDHHS staff members testified Petitioner's electronic case file revealed no evidence that the third page of a Medical- Social Questionnaire or a signed DHS-1555 was returned. Both MDHHS specialists also indicated that a DHS-1555 was not returned as part of a previous FIP application from Petitioner.

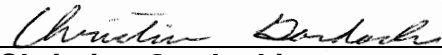
The presented evidence from MDHHS did not definitively establish that Petitioner failed to return the requested forms. The presented evidence from MDHHS was more persuasive than Petitioner's claim that she submitted requested documents. It is found that Petitioner failed to return a DHS-1555 and a fully-completed Medical- Social Questionnaire.

Technically, MDHHS' official basis for denial was not a failure to return verifications; thus, it cannot be used to justify application denial. Petitioner's failure to return verifications can be used to justify denying Petitioner's deferral from PATH. Based on undisputed evidence that Petitioner failed to attend PATH, the FIP application denial is found to be proper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated [REDACTED], due to Petitioner's failure to return a fully-completed Medical-Social Questionnaire and a DHS-1555. The actions taken by MDHHS are **AFFIRMED**.

CG/HW



Christian Gardocki
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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]