



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 18, 2017
MAHS Docket No.: 17-007706
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 July 31, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist. [REDACTED], specialist, participated as an observer.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

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 FIP recipient.
2. On March 28, 2017, MDHHS initiated termination of Petitioner's FIP eligibility, effective May 2017, for the reason that Petitioner failed to pursue benefits.
3. Petitioner did not fail to pursue benefits.
4. On June 2, 2017, Petitioner requested a hearing to dispute the termination of FIP eligibility.

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).

Petitioner requested a hearing to dispute a termination of FIP benefits. MDHHS testimony indicated Petitioner's FIP eligibility ended because of Petitioner's failure to verify school attendance for two of her children.

Dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, in order to enhance their potential to obtain future employment leading to self-sufficiency. BEM 245 (July 2016) p. 1. Dependent children ages 6 through 17 must attend school full-time. *Id.* If a dependent child age 6 through 15 is not attending school full-time, the entire... group is not eligible to receive FIP. *Id.* [For FIP benefits, MDHHS is to] verify school enrollment and attendance at application and redetermination beginning with age 7. *Id.*, p. 10.

It was highly debatable whether Petitioner sufficiently verified school attendance for two of her children. Petitioner testimony conceded her [REDACTED] old and [REDACTED] old children missed over 2 months of school over late 2016 to early 2017. As of the hearing date, Petitioner had not submitted documents to MDHHS verifying that her children consistently attended school despite multiple requests by MDHHS.

Presented evidence tended to establish that Petitioner was negligent, in either parenting and/or document submissions. Despite Petitioner's negligence, MDHHS demonstrated procedural negligence.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5-9) dated March 30, 2017. The notice informed Petitioner of a FIP termination, effective May 2017. The stated reason for termination was Petitioner's alleged failure to pursue unspecified benefits. MDHHS testimony conceded the provided reason for FIP termination was improper.

[For all programs,] upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (January 2017), p. 2. A notice of case action must specify the following: the action(s) being taken by the department; the reason(s) for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. *Id.*

MDHHS testimony implicitly contended that Petitioner's FIP eligibility was properly closed given the history of the case. MDHHS contended that Petitioner's FIP eligibility was "reinstated" (at least to allow further case processing, though benefits were not

issued), that multiple requests for school verification were made, and that Petitioner failed to respond to the requests.

Consideration was given to whether MDHHS remedied the improper notice through their subsequent actions. MDHHS verified a second notice of closure was issued on June 13, 2013 (Exhibit 1, pp. 20-21). The second notice stated Petitioner's eligibility was terminated due to Petitioner not being a caretaker to a minor child. MDHHS' attempted remedy was insufficient because MDHHS again failed to issue proper notice of termination to Petitioner.

It is found that MDHHS improperly mailed notice of FIP termination to Petitioner. Thus, the termination of Petitioner's FIP eligibility was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility beginning May 2017;
- (2) Initiate a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

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]
[REDACTED]

Petitioner

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