



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: March 1, 2018
MAHS Docket No.: 18-000208
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; 42 CFR 438.400 to 438.424; 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 February 20, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, [REDACTED], Partnership. Accountability. Training. Hope. (PATH) Coordinator, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits and impose a three-month sanction for Petitioner's failure to participate in employment related activities?

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 February 13, 2017, Petitioner applied for FIP benefits.
2. On February 17, 2017, Petitioner submitted a letter to the Department stating that she was a [REDACTED].
3. Petitioner received a five-month deferment from participating in employment sufficiency activities.

4. On July 21, 2017, Petitioner submitted a Medical Needs form stating that she was disabled and therefore unable to participate in employment sufficiency activities.
5. Petitioner received a three-month deferment from participating in employment sufficiency activities.
6. On November 1, 2017, the Department sent Petitioner a PATH Appointment Notice which instructed Petitioner to appear at the Livonia Service Center on November 14, 2017 at 8:30 a.m.
7. On November 9, 2017, the Department sent Petitioner a Medical Needs form requesting that the form be completed and returned on or before November 20, 2017.
8. Petitioner failed to appear on November 14, 2017 and failed submit the Medical Needs form by November 20, 2017.
9. On November 20, 2017, the Department sent Petitioner a Notice of Noncompliance which scheduled a meeting for November 29, 2017 at 8:30 a.m.
10. Also, on November 20, 2017, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FIP would close and that she would be assessed a three-month sanction for her noncompliance.
11. The purpose of the meeting was to allow Petitioner an opportunity to establish good cause for her noncompliance.
12. Petitioner failed to appear for the November 29, 2017 meeting and as a result, the Department determined that Petitioner did not establish good cause and allowed her FIP benefits close.
13. On January 5, 2018, 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.

Additionally, for a client to receive FIP benefits, DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. BEM 223A (April 2016), p. 1.

A Work Eligible Individual (WEI) and non-WEIs who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. 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 of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. *Id.*

In this case, Petitioner received two deferrals from participating in the PATH program. Once the second deferral ended, the Department sent Petitioner a PATH Appointment Notice on November 1, 2017 instructing her to appear at the Livonia Service Center. On November 9, 2017, the Department sent Petitioner a second Medical Needs form to be completed on or before November 20, 2017.

On November 5, 2017, Petitioner submitted a Change Report to the Department in which she notified the Department that she had moved to a new residence. Petitioner provided the address to the new residence. The Department mailed the second Medical Needs form on November 9, 2017 but sent it to Petitioner's old address. The Department mailed the Notice of Noncompliance on November 20, 2017 scheduling the good cause meeting. However, the Department sent the Notice of Noncompliance to Petitioner's old address.

Petitioner testified that she changed her address with the Post Office and requested that her mail be forwarded from her old address to her new address. Petitioner testified that it would take up to 30 days for her to receive mail forwarded from her old address. Petitioner further testified that she did not receive the date sensitive mail from the Department until well after the date deadlines had passed.

The Department was unable to articulate why it sent mail to Petitioner's old address after it received the November 5, 2017 Change Report which provided an updated address. As such, it is found that the Department improperly determined that Petitioner failed to establish good cause for her noncompliance and therefore, improperly closed Petitioner's FIP benefits.

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 closed Petitioner's FIP benefits and imposed a three-month sanction.

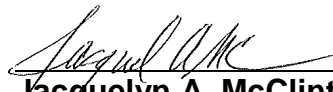
DECISION AND ORDER

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 which closed as a result of the closure for noncompliance with employment related activities;
2. Remove the three-month sanction placed on Petitioner's FIP benefits as a result of the finding of noncompliance with employment related activities;
3. If Petitioner was eligible for supplements, issue FIP supplements Petitioner was eligible to receive but did not as a result of the finding of noncompliance with employment related activities; and
4. Notify Petitioner in writing of its decision.

JAM/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:



Petitioner – Via First-Class Mail:

Gloria Camper

