



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 15, 2018
MAHS Docket No.: 18-001039
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three way hearing was held on March 14, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly close and sanction the Petitioner's Family Independence Program (FIP) cash assistance for failure to complete a Family Automated Screening Tool (FAST)?

Did the Department properly deny the Petitioner's application for FIP?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for FIP cash assistance on October 29, 2017 in Wayne County listing her address as [REDACTED]. Exhibit H
2. The Petitioner was sent a FAST for her completion on October 30, 2017 to the address provided with the application. The FAST was never completed by the Petitioner. Exhibit A, p. 4-5

3. The Department issued a Notice of Case Action on November 15, 2017 denying the Petitioner FIP benefits for November 2017 as she was still under a non compliance sanction until November 30, 2017. The Department Notice also approved the Petitioner for December 1, 2017 ongoing for FIP in the amount of [REDACTED] a month. The Petitioner received FIP for December 2017. Exhibit B
4. The Department issued a Notice of Case Action on November 30, 2017 when it did not receive the FAST, closing the Petitioner's FIP cash assistance effective January 1, 2018. The Notice Reasons were that she failed to participate with employment and/or self-sufficiency –related activities. The Notice advised that the Petitioner was no longer eligible for FIP due to a third sanction being received. The third sanction was imposed due to failure to complete a FAST. Exhibit C
5. A Notice of Noncompliance was sent to the Petitioner on November 30, 2017 scheduling a triage on December 12, 2017. Petitioner did not receive the Notice and did not participate in the triage.
6. On December 20, 2017, the Petitioner applied for State Emergency Relief (SER) indicating that she was homeless. Exhibit I
7. The Petitioner applied for FIP on January 2, 2017 and listed her address as [REDACTED]. Exhibit K
8. A Notice of Case Action was issued on January 4, 2018 denying the January 2, 2018 FIP application due to a third sanction which disqualified the Petitioner for lifetime from receiving FIP. Exhibit D
9. The Petitioner requested a timely hearing January 17, 2017 protesting 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.

In this case, the Department denied the Petitioner's January 2, 2018 FIP application and denied FIP benefits effective February 1, 2018 due to Petitioner having a third sanction imposing a lifetime sanction for failure to participate in work related activities for failure to complete the FAST.

The Petitioner had previously applied for FIP benefits on October 29, 2017. A FAST was sent to the Petitioner at the address she reported on her October 29, 2017 application. The October 29, 2017 application was approved for December 1, 2017 and then FIP closure occurred on January 1, 2018 for failure to complete the FAST. The Notice of Case Action closing the Petitioner's FIP case was sent on November 30, 2017. Exhibit C. The November 30, 2017 imposed a third sanction and disqualified the Petitioner for life from receiving FIP benefits. Exhibit C. The Petitioner testified that she never received the FAST as she was evicted from her home on November 6, 2017. The Petitioner was initially approved for FIP based upon her October 30, 2017 application and thus was active for FIP at the time of the January 1, 2018 closure and sanction application.

The Petitioner reapplied for FIP again on January 2, 2018 and was denied by a Notice of Case Action issued on January 4, 2018 due to the Petitioner having a third sanction for non compliance with work participation activities and a lifetime disqualification.

Department policy found in BEM 233A addresses the consequences imposed when a FAST is not completed and provides:

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.

- Develop a FSSP.

Note: A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.

- Comply with activities assigned on the FSSP....

- **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.**

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

Department policy also provides in the section entitled Noncompliance penalties for **Active** FIP Individuals the following:

Note: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete the FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. BEM 233A, p. 9 (Emphasis supplied).

Thus, based upon the Department policy found in BEM 233A, particularly the provision cited above under the section applicable to active recipients of FIP, the policy provides that the Department **cannot** apply a sanction for failure to complete a FAST and the Department may close the case for failure to provide verification.

Given the evidence presented in this case it is determined that the Department improperly imposed a third sanction on Petitioner for failure to complete a FAST and thus must remove the third sanction it imposed by Notice of November 30, 2017 which closed the Petitioner's FIP case effective January 1, 2017. Exhibit C. The Department was entitled to close the case based upon the Petitioner's failure to provide the FAST. The FAST was sent to the Petitioner's address of record because the Petitioner did not notify the Department regarding her change of address until she applied for SER on December 19, 2017. Exhibit I

In addition, the Department's denial of Petitioner's January 2, 2017 FIP application based upon the improper sanction imposing of a third sanction is also determined incorrect as the sanction although of record, was improperly imposed.

In conclusion, the Department must re-register the January 2, 2018 FIP application and must also remove the third non-compliance sanction imposed for failure to complete the FAST.

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 imposed a third sanction on Petitioner for failure to complete a FAST and improperly denied the Petitioner's January 2, 2018 FIP application due to the lifetime disqualification which was improperly imposed.

DECISION AND ORDER

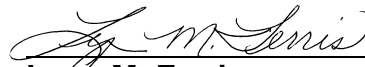
Accordingly, the Department's decision is

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. The Department shall reinstate the Petitioner's January 2, 2018 FIP application and process the application.
2. The Department shall remove the third sanction imposed on Petitioner.
3. The Department shall supplement the Petitioner for FIP benefits she is otherwise eligible for and entitled to receive in accordance with Department policy.

LF/tm



Lynn M. Ferris
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]
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[REDACTED] [REDACTED]
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