



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2018
MAHS Docket No.: 18-006027
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 August 2, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Territa Rivers-Jones, Family Independence Manager, and Audrey Craig, Family Independence Specialist.

ISSUE

Did the Department properly cancel Petitioner's Family Independence Program (FIP) case?

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 a FIP benefit recipient, as an ineligible grantee for two family foster children.
2. Petitioner had a child support sanction and her FIP was cancelled.
3. On April 11, 2018, the child support sanction was lifted and Petitioner's FIP was reinstated.

4. On May 11, 2018, the Department sent Petitioner a Notice of Case Action indicating that Petitioner's cash assistance was closed, and her Food Assistance Program case increased effective June 30, 2018, because household members failed to complete the required Family automated Screening Tool (FAST) within 30 days of notice.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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.

Pertinent Department policy dictates:

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The Department provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. This item includes procedures to meet the minimum requirements for a fair hearing. Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing. BAM 600, page 1

Petitioner testified that she did fill out the FAST at initial application last year, but her case has been closing every month or so and she has been trying to get it fixed. She has two foster children and she was applying for FIP as an ineligible grantee.

In this case, the Department failed to provide evidence that a notice of the requirement to fill out the FAST was sent to Petitioner. The Department caseworker first testified that this case involved a denial of Petitioner's application for FIP benefits. Then, the Department Representative indicated that the case was an ongoing case with cancellation of Petitioner's FIP benefits. No one from the Department provided evidence as to what exactly happened in this case.

The required elements of due process are those that "minimize substantively unfair or mistaken deprivations" by enabling persons to contest the basis upon which a State proposes to deprive them of protected interests. *Fuentes v. Shevin*, 407 U.S. 67, 81 (1972). The core of these requirements is notice and a hearing before an impartial tribunal.

The Department failed to establish by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it cancelled Petitioner's FIP benefits. The Department has not established this case by a preponderance of the evidence on the record. There was no evidence on the record that a meaningful prehearing conference was offered or allowed for the resolution of the issue. This Administrative Law Judge finds that the Department's actions cannot be upheld under the circumstances.

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. Initiate re-instatement of Petitioner's Family Independence Program case to the June 1, 2018 date of closure;
2. Provide Petitioner with 30 days to complete the Family automated Screening Tool (FAST);
3. Notify Petitioner of her eligibility or lack thereof; and
4. If eligibility is determined, pay to Petitioner any Family Independence Program benefits to which she is entitled from June 1, 2018, date of closure forward.

LL/bb



Landis Lain
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) 763-0155; 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

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne County (District 76), DHHS

BSC4 via electronic mail

B. Cabanaw via electronic mail

Petitioner

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