



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 31, 2018
MAHS Docket No.: 18-007753
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 30, 2018, from Lansing, Michigan. Petitioner was represented by himself. Petitioner's caregiver, [REDACTED], also appeared and testified. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator. Mashana Chuney, Assistance Payments Worker, also appeared and testified. Department Exhibit 1, pp. 1-44 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Family Independence (FIP) benefit and sanction Food Assistance Program (FAP) benefit for failing to participate with Partnership Accountability Training Hope (PATH) requirements?

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], 2017, Petitioner applied for FIP benefits.
2. Petitioner submitted a Medical Needs form completed by his treating physician dated October 20, 2017, that opined that Petitioner was unable to work at his usual occupation or any job for 6 months. (Exhibit 1, pp. 3-4)

3. On January 19, 2018, Petitioner was deferred from PATH because he alleged that he has a disability.
4. On February 27, 2018, MRT found that Petitioner had a non-severe impairment.
5. On May 21, 2018, Notice of Case Action was sent to Petitioner informing him that his FIP benefits would close effective July 1, 2018, and his FAP benefits would be reduced to \$ [REDACTED] per month because he failed to participate with PATH.
6. On July 23, 2018, Petitioner requested hearing contesting the closure of FIP and reduction of FAP.
7. Petitioner credibly testified at hearing that he cannot sit for more than 15 minutes and that the side effects of his medications leave him drowsy and dizzy.
8. Petitioner's caregiver credibly testified that she has to perform basic household chores for Petitioner because he is unable to do himself.

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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client. BEM 233A

In this case, Petitioner had good cause for failing to participate with PATH because he is physically unfit for the job or activity. BEM 233A Specifically, Petitioner was not able to sit for the requisite time to complete the PATH orientation. In addition, Petitioner has a debilitating injury which requires the need of an in-home helper to complete daily activities and good cause should have been found on that ground as well. BEM 233A The Department received a Medical Needs form that confirmed that Petitioner was unable to work his usual occupation or any job for 6 months but disregarded that assessment and then failed to obtain an updated assessment. (Ex. 1, pp. 3-4) Therefore, the Department closure for failing to participate with PATH without good cause was improper and incorrect.

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 case and sanctioned his FAP benefits.

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 FIP benefits going back to the date of closure.
2. Lift the FAP sanction and Reinstate FAP benefits going back to the date of the sanction.
3. Issue a supplement for any missed benefits.

AM/bb



Aaron McClintic

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

LaClair Winbush
8655 Greenfield
Detroit, MI 48228

Wayne County (Grandmont), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

D. Sweeney via electronic mail

G. Vail via electronic mail

Petitioner

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MI [REDACTED]