



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 25, 2018
MAHS Docket No.: 18-008620
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

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. After due notice, a telephone hearing was held on September 20, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Sara Kuczynski.

ISSUE

Does Petitioner's request for a hearing raise an issue that falls within the jurisdiction of the Michigan Administrative Hearing System (MAHS)?

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], 2018, the Department received Petitioner's application for cash assistance. Exhibit 1.
2. On August 9, 2018, the Disability Determination Service (DDS) determined that Petitioner is a Work Eligible Individual (WEI) because she is capable of performing work activities with limitations. Exhibit 2.
3. On August 14, 2018, the Department notified Petitioner that she was required to go to MI WORKS on a Health Care Coverage Determination Notice (DHS-1606). Exhibit 3.
4. On August 23, 2018, the Department received Petitioner's request for a hearing.

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.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (July 1, 2018), p 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. 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 (January 1, 2018), pp 3-4.

When a deferral is not granted, it is not a loss of benefits, termination or negative action. When a client requests a hearing based on not being granted a deferral, the Department will advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. Be sure the client understands the time to file a hearing is once he/she receives a Notice of Case Action for noncompliance. BEM 230A, p 18.

On [REDACTED], 2018, the Department received Petitioner's application for cash assistance. The Department referred Petitioner to the Partnership. Accountability. Training. Hope. (PATH) program as a condition of receiving cash assistance, but Petitioner requested a deferral from that condition based on her physical impairments. On August 9, 2018, the DDS determined that Petitioner's physical impairments do not prevent her from performing any work-related activities and that she is capable of performing work with limitations.

Petitioner then requested a hearing protesting the determination that she is work-ready despite her physical impairments.

Petitioner has not been denied cash assistance and she has not been found to be noncompliant with any required employment related assignment. Petitioner could potentially become noncompliant if she refuses to attend a required activity, which could lead to a loss of benefits, but as of August 23, 2018, there has been no action taken by the Department for which Petitioner has a right to a hearing as defined by BAM 600.

Petitioner's hearing request is therefore **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.

KS/hb



Kevin Scully
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

Rolando Gomez
1365 Cleaver Road
Caro, MI 48723

Tuscola County, DHHS

BSC2 via electronic mail

G. Vail via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]