



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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

Date Mailed: October 22, 2018  
MAHS Docket No.: 18-009752  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

**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 hearing was held on October 18, 2018, from Lansing, Michigan. Petitioner personally appeared and testified. [REDACTED] [REDACTED] Petitioner's parent appeared as a witness. The Department of Health and Human Services (Department) was represented by Cy Young, PATH Coordinator.

**ISSUE**

Did the Department properly deny Petitioner's long-term incapacity request that she be allowed to continue to collect cash welfare benefits without complying with work requirements on the grounds that the MRT found Petitioner not disabled?

**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 August 3, 2017, Petitioner turned in a DHS-54E indicating that she cannot work due to chronic asthma. Petition was subsequently deferred for three months from attending Michigan Works for her Cash Welfare Assistance benefits. Exhibit A.5-6.
2. Respondent failed to act on Petitioner's case after the 90-day period expired. Upon discovery in April 2018, the PATH Coordinator forwarded Petitioner's case to the MRT for review pursuant to required policy. Petitioner's medical packet collected by Respondent includes 753 exhibits.

3. On August 24, 2018, the MRT denied Petitioner on the basis that her alleged impairment(s) are non-server/duration. Exhibit A.8-13.
4. Petitioner has been denied SSI with the SSA.
5. On August 27, 2018, Petitioner was advised that she was required to attend Michigan Works.
6. On September 24, 2018, Petitioner filed a hearing request. Respondent reinstated the deferral on behalf of Petitioner despite the hearing request being over 11 days from the date of notice until the outcome of the administrative 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.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10,

In this case, applicable policy is found in BAM 600 and 815. Specific wot the work requirements, BEM 230A addresses Employment and/or Self-Sufficiency Related Activities: FIP. This policy states that an individual can be given a "short-term incapacity" deferral for up to three months upon verification of an incapacity by an individual's physician. BEM 230A, p 11.

Here, there is no dispute that Petitioner obtained the necessary paperwork and was granted a 90-day deferral pursuant to the paperwork delivered on August 3, 2017, from her physician. However, evidently the Respondent failed to act on this case after 90 days. At 90 days, policy directs the Respondent to forward the case to the MRT for a "long-term incapacity" determination pursuant to BEM 230A, p 11. Instead, Petitioner collected case assistance without complying with the work requirements until the error was discovered in April 2018. At that point, the PATH Coordinator collected Petitioner's medical file consisting of 753 exhibits and forwarded the medical records to the MRT for review as required. Pursuant thereto, MRT denied Petitioner a long-term incapacity status on the basis that Petitioner's alleged impairments did not meet the severity/duration requirement.

It is noted that Respondent indicated that it was NOT going to attempt to recoup benefits from Petitioner that she received after the 90 days as the error was Respondent's error. It is also noted that Petitioner has been denied SSI by SSA.

Here, Petitioner does not dispute or refute any of the procedures involved in processing her case, including triage, and appointments. Rather, Petitioner argues that she is disabled and cannot work. Petitioner also argues that she is a student and thus should be exempt.

Here, substantial and credible evidence of record, including over 753 of Petitioner's medical exhibits support the MRT finding that Petitioner does not meet 20 CFR 416.909 as found in Exhibit A. Petitioner argued at hearing that her physician's statement from 2017 should hold more weight than the 753 pages which contains extensive medical documentation, including from her numerous physicians. Petitioner brought no updated medical documents to the hearing. Nor did Petitioner dispute any of the medical findings and conclusions found in the 753 pages.

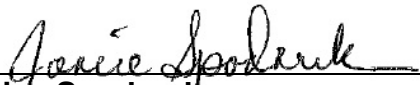
As to Petitioner's argument that she should be exempt as she is in school, the Respondent pointed out that such is premature, and any such verification and deferral would be determined by Michigan Works. That is, going to school does not exempt Petitioner from having to comply with the assignment to go the Michigan Works. As such, Petitioner's status as a student to the facts here is irrelevant.

As Petitioner failed to meet her burden of proof, and as Respondent met its burden of going forward, and as the credible and substantial evidence of record supports the Respondent's decision herein, Respondent's decision must be upheld. Respondent acted in accordance with Department policy when it denied Petitioner a long-term incapacity.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

JS/hb

  
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**Janice Spodarek**  
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**

Denise Croff  
301 E. Louis Glick Hwy.  
Jackson, MI 49201

Jackson County, DHHS

BSC4 via electronic mail

G. Vail via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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