



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: January 8, 2019
MAHS Docket No.: 18-011662
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 telephone hearing was held on December 10, 2018, from Detroit, Michigan. The Petitioner was represented by Cassandra Walker of Westside Mothers, Petitioner's Authorized Hearing Representative (AHR). At the hearing, the Petitioner's AHR agreed to waive the In-Person Hearing Request and proceed by telephone. The Department of Health and Human Services (Department) was represented by Quanita Munoz, Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Family Independence Program (FIP) Cash Assistance due to failure of a household member, Petitioner's long-term partner to attend the Partnership. Accountability. Training. Hope. (PATH) Program?

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 was a recipient of FIP cash assistance benefits and Food Assistance Program (FAP) benefits. Petitioner is disabled and receives Supplemental Security Income (SSI) and does not attend the PATH Program.
2. Petitioner has a child in common with a long-term partner, [REDACTED]
[REDACTED] the father of Petitioner's son, [REDACTED]

3. The Department issued a Notice of Case Action on October 10, 2018, closing the Petitioner's FIP cash assistance case on November 1, 2018, due to [REDACTED] failure to participate in employment or self-sufficiency-related activities. The Department imposed a 3-month sanction closing the FIP for 3 months through January 31, 2019. The Department also reduced the Petitioner's FAP due to [REDACTED] failed to participate in FAP employment-related-activity requirement or voluntarily quit a job. [REDACTED] was denied benefits for 30 days and was advised to reapply after November 1, 2018. (Exhibit A.)
4. The Petitioner disputed that [REDACTED] lived in her home at [REDACTED] Michigan. The Petitioner, at the time of the OIG investigation, had a lease for [REDACTED] Michigan. (Exhibit I and Petitioner Exhibit A.)
5. The Office of Inspector General Investigator interviewed [REDACTED] at Petitioner's home at [REDACTED] Michigan, on July 30, 2018. At that time, [REDACTED] advised OIG that he lived in the Petitioner's home and that it was his full-time residence. [REDACTED] confirmed to the OIG that he completed a Medical Assistance (MA) application and was active for MA at Petitioner's address. Further notes indicate that [REDACTED] also advised his own caseworker that he lived with his partner in June of 2018. (Exhibit D and Exhibit E.)
6. At the time the OIG interviewed [REDACTED], he advised OIG that he had told his worker that he works at Wendy's Restaurant and has been reporting his employment and income to the Department. (Exhibit D and Exhibit E and Exhibit J.)
7. The OIG investigation was completed on August 1, 2018, and found that [REDACTED] was still living with Petitioner and should be added to her FAP case because he is the father of her son, and his income should be budgeted into Petitioner's FIP and FAP grant.
8. In addition, an Asset Detection Services report showed that [REDACTED] address was listed as [REDACTED] Michigan. There were no accounts listed for Petitioner's address. (Exhibit F.)
9. The Department received a Verification of Employment from Mr. Myles listing a job with Wendy's and which listed his address as 543 Eliot St., Detroit, Michigan, the same address as Petitioner's. (Exhibit J.)
10. The Petitioner was sent a PATH Appointment Notice on September 21, 2018, advising [REDACTED] that he was required to attend a PATH Appointment on October 1, 2018, at 9:00 a.m. [REDACTED] did not attend the appointment. (Exhibit C.)
11. A Notice of Noncompliance was issued on October 10, 2018, indicating that [REDACTED] failed to attend his PATH appointment on October 15, 2018. A triage was scheduled for October 16, 2018, at 1:30 p.m. [REDACTED] did not attend the triage.

12. As of November 1, 2018, the Petitioner's FAP group had four (4) members: three children and Petitioner. [REDACTED] was disqualified from the group due to PATH noncompliance and was removed from the group November 1, 2018. [REDACTED] monthly earned income of \$[REDACTED] was included in the FAP group income. The total group income was \$[REDACTED] (Exhibit J.)
13. The Petitioner's AHR requested a timely hearing on November 7, 2018, 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.

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.

In this case, the Department closed the Petitioner's FIP cash assistance due to a mandatory group member, [REDACTED], her living-together partner's (LTP), failure to attend PATH when assigned and failure to attend the triage. In addition, the Department disqualified and removed the Petitioner's LTP from her FAP group due to his quitting a job and/or not attending PATH. The Department issued a Notice of Case Action on October 10, 2018, effective November 1, 2018, for both actions. The FAP benefits were reduced due to the LTP's income and his removal from the FAP group for 30 days. (Exhibit A.) A three-month closure penalty (sanction) was also imposed for noncompliance with PATH requirements as regards the Petitioner's FIP case. Department policy supports this action regarding FIP closure and a 3-month penalty due to the failure of the LTP to appear at PATH or demonstrate good cause for not attending. BEM 233A (July 2018), pp. 1 and 8. Department policy requires clients to participate in employment and self-sufficiency-related activities and to assist clients in removing barriers to participation; however, there are consequences for a client who refuses to participate without good cause. EBEM 233 A, p. 1.

In addition, the Department policy in BEM 233 B allows for FAP recipients with active FIP cases who fail to comply with work participation requirements without good cause may also have their FAP benefits terminated if the client is active for FIP and is noncompliant with PATH without good cause or voluntarily quits a job without good cause. BEM 233B (January 2019), p. 1. Because the LTP was properly in the FIP group, and was active for both FIP and FAP, and did not appear for the PATH appointment, with no evidence of a deferral, and no good cause presented, the Petitioner's LTP was subject to a finding of noncompliance for FAP and disqualification of one month. BEM 233B, p. 6. After the expiration of the disqualification period, disqualification may be ended early if the noncompliant person, complies with cash program work requirements, obtains a comparable job, meets a deferral reason, or leaves the group. BEM 233B, pp. 10-11. A compliance test must be met before the disqualified person is eligible for FAP again. BEM 233B, p. 11.

The requirements that an individual be included in a FIP group are found in BEM 210 (April 2017). The group composition is determined based upon individuals living together and their relationship. The group must include a dependent child who lives with a parent and is under 18 or 18 years of age and a full-time high school student. A person in is the FIP EDG as a mandatory member when as in this case a parent, Petitioner's LTP, Mr. Myles, was living with his and Petitioner's child. BEM 210, p. 5. The Petitioner did not dispute that her LTP was the father of her child Damari Freeman. The basis for the establishment of the LTP and Petitioner living together was the interview by the OIG agent conducted on July 30, 2018, wherein the LTP advised he lived at Petitioner's address and that he worked at Wendy's. (Exhibit E.) Although this evidence was disputed by Petitioner, the OIG report is very clear and is sufficient to establish that the LTP was living with Petitioner at her house. In addition, the Petitioner's LTP had an application for FAP and MA cases for June 25, 2018, where he listed the Petitioner's address as his address. The lease presented by Petitioner for her home at [REDACTED] effective May 3, 2018, does indicate that the LTP is not on the lease but again the testimony to the OIG by [REDACTED] after the lease was signed is sufficient to establish that [REDACTED] was living in Petitioner's home. Nowhere in the OIG report does it state that [REDACTED] was living there occasionally as asserted by the Petitioner and her AHR. (Petitioner Exhibit A.) The Department also testified that her LTP filed an application for MA and FAP on June 25, 2018, listing Petitioner's address.

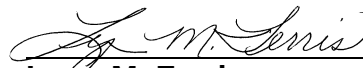
In addition, parents and children who live together requires that both parents must be included in the FAP group. Living with means sharing a home where family members usually sleep and share living quarters and purchase and prepare food together. BEM 212 (January 2017), p. 1. Thus, the Department properly included the Petitioner's LTP in the FAP group based upon his face-to-face admission to the OIG that he resided in the home with Petitioner and his child. In addition, a Verification of Employment for June 20, 2018, was completed by the LTP and indicated that his address was Petitioners' address. (Exhibit J.) Once in the FAP, group has a mandatory member as here, the LTP's income from employment must be included in the FAP benefit calculation.

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 acted in accordance with Department policy when it closed the Petitioner's FIP case and reduced the Petitioner's FAP benefits.

DECISION AND ORDER

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

LMF/



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) 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

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