



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 10, 2019
MOAHR Docket No.: 19-003060
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 May 1, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Hall, Success Coach, and Diane Jennings, Employment Training Coordinator. During the hearing, a 13-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-13.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) cash assistance case, effective February 1, 2019?

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 an ongoing recipient of FIP cash assistance and was deferred from participation in employment-related activities due to an alleged disability.
2. On or around July 26, 2018, the Department received notice from Disability Determination Services (DDS) informing the Department that Petitioner was not disabled and was work ready with limitations.

3. On November 13, 2018, Petitioner attended a Partnership Accountability Training Hope (PATH) program orientation. During the meeting, Petitioner complained of back pain and did not complete the process.
4. The Department placed Petitioner back into deferral status and issued a document to Petitioner titled Medical Needs. Petitioner was instructed to bring the form to a medical professional to fill out. The form was completed and returned to the Department sometime in November 2018. Exhibit A, pp. 10-11.
5. The Department removed the deferral and closed Petitioner's FIP cash assistance case, effective February 1, 2019.

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.

In this case, Petitioner was an ongoing recipient of FIP cash assistance from the Department until the Department closed Petitioner's case, apparently effective February 1, 2019.¹ According to the Department's testimony, the case closed because Petitioner failed to take action that was required of him. Notably, the record is entirely devoid of any directive from the Department telling Petitioner to take any action nor any notice of case action. On [REDACTED], 2019, Petitioner submitted a request for hearing objecting to the Department's closure of his FIP cash assistance case.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing

¹ As the Department failed to produce any notices of case action, it is unclear as to when the action was effective.

summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action or Health Care Coverage Determination Notice and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions taken with respect to his FIP cash assistance benefits case. The matter was transferred to MOAHR for a hearing on the contested issue. The Department put together a hearing summary outlining the Department's case and a hearing packet consisting of documentation purported to be relevant to the matter at hand. The hearing summary stated that Petitioner's case was closed for failing to follow a Department directive. However, the hearing packet did not include any evidence that the Department in fact issued any directives that were not followed. Likewise, the hearing packet did not include the contested notice of case action that resulted from the alleged failure to follow the missing directive, as required by policy. At the hearing, the Department was unable to substantiate its actions in any meaningful way. Thus, the Department has not met its burden of proof.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP cash assistance benefits case.

DECISION AND ORDER

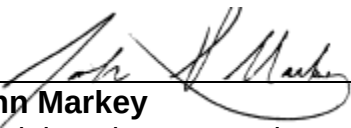
Accordingly, the Department's decision is **REVERSED**.

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 Petitioner's FIP cash assistance case back to the date of closure;
2. Determine Petitioner's eligibility for FIP cash assistance benefits going forward and provide notice of any case actions pursuant to Department policy;

3. If there are any outstanding questions regarding Petitioner's eligibility for FIP cash assistance benefits, follow Department policy in gathering verifications of relevant eligibility-related factors;
4. If Petitioner is eligible for additional benefits that he did not receive as a result of the Department's unsubstantiated closing of his FIP cash assistance benefits case, promptly issue to Petitioner a supplement; and
5. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Wayne-23-Hearings
G. Vail
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]