



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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

Date Mailed: May 13, 2019
MOAHR Docket No.: 19-003087
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 8, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits?

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 January 24, 2019, the Department received a Family Medical Leave Act Certification of Employee's Serious Health Condition indicating Petitioner was incapacitated from November 17, 2018 through February 13, 2019 with re-evaluation in February 2019, a letter dated January 10, 2019 from a surgery scheduler with [REDACTED] Cardiothoracic & Vascular Surgeons indicating Petitioner was scheduled for heart surgery on [REDACTED] 2019 at 7:45 AM, and physician's notes from [REDACTED] 2018; [REDACTED] 2018; and [REDACTED] 2018.
2. In February 2019, Petitioner submitted an application for FIP benefits
3. On February 25, 2019, Petitioner submitted a Medical Needs-PATH form (DHS 54-E) signed by her doctors to the Department which indicated Petitioner could not work at her usual occupation for three months, that she had restrictions

limiting her lifting or carrying of items to no more than 10 pounds for six weeks, and then to no more than 10 to 25 pounds for an additional month, among other things, but noting that these limitations were not expected to last more than 90 days at the time the form was completed on February 22, 2019.

4. On March 11, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FIP application had been denied because she failed to verify or allow the Department to verify information necessary to determine eligibility, specifically, one box was not checked on the DHS-54-E to indicate whether or not she was capable of working at any job versus her usual job.
5. On March 18, 2019, the Department received Petitioner's request for hearing disputing the denial of her FIP benefits.
6. On March 19, 2019, an inquiry was made to the policy section of the Department to determine whether denial of Petitioner's application had been appropriate.
7. On March 26, 2019, the policy section responded to the inquiry and indicated that denial of the application had been inappropriate based upon everything in the case file and that the case should have been placed in a Partnership. Accountability. Training. Hope. (PATH) deferral status until clarification could be received about Petitioner's ability to work in other jobs.
8. On April 12, 2019, the Department received a Medical Needs form (DHS-54-A) signed by her doctor indicating that Petitioner could return to her usual occupation after May 4, 2019 but also indicated that Petitioner could work at other jobs.
9. On April 15, 2019, the Department received another DHS-54-A signed by her doctor indicating that Petitioner could return to her usual occupation after May 4, 2019 but also indicated that Petitioner could work at other jobs.
10. On April 29, 2019, the Department issued a PATH Appointment Notice to Petitioner for an appointment dated May 6, 2019, at 8:30 AM at the Capital Area Michigan Works! (Lansing) office.
11. At the time of the hearing, FIP benefits had not been issued to Petitioner for any period after her application despite her referral to PATH because the 21-day application eligibility period (AEP) had not yet been completed.

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 disputes the Department's denial of her FIP application. The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (January 2018), p. 1. Federal and state laws require each work-eligible individual in the FIP group to participate in PATH or engage in activities that meet participation requirements. *Id.* A work-eligible individual who refuses, without good cause, to participate in an assigned employment and/or other self-sufficiency related activity is subject to penalties. *Id.* Individuals may be deferred from referral to the PATH program if the individual is a recipient of Retirement, Survivors and Disability Insurance (RSDI) based on disability or blindness and persons found eligible for RSDI based on disability or blindness who are in non-pay status. BEM 230A, pp. 10-11.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A, p. 11. Short-term incapacity and its length can be verified by using a DHS-54-A, Medical Needs, or DHS-54-E Medical Needs-PATH form, or other written statement from a Medical Doctor, Doctor of Osteopathic Medicine, or Physician's Assistant. *Id.*

For long-term-incapacity clients, those that have an incapacity, disability, or inability to participate in PATH for more than 90 days, the client is deferred in Bridges. *Id.* Once a client claims a long-term disability, the client must provide the Department with verification of the disability showing it will last longer than 90 days. BEM 230A, p. 12. The Disability Determination Service (DDS) determines whether the client is able to participate in PATH. Clients determined as work ready with limitations are required to participate in PATH as defined by DDS. BEM 230A, p. 13. The Department must end the disability in Bridges, update the client's file as work ready with the defined limitations from DDS, and Bridges generates the referral to PATH. *Id.*

In addition, policy provides that before determining eligibility for all programs, the Department must give the client a reasonable opportunity to resolve any discrepancies between their statements and information from other sources. BAM 130 (April 2017), p. 9.

In this case, Petitioner submitted ample documentation to the Department to support at a minimum a short-term disability deferral because of a heart condition and heart surgery. In addition, she submitted a DHS 54-E indicating she could not work in her usual occupation for approximately three months; she was not capable of lifting more than 10 pounds for at least six weeks, and then was restricted for another month to

lifting no more than 10 to 25 pounds; and she could stand or walk for less than two hours per 8- hour workday; and finally, she needed assistance with dressing, meal preparation, shopping, laundry, and housework. This evidence was sufficient to at least provide Petitioner with a deferral from the PATH program until the time when the Department was able to clarify or receive clarifications from Petitioner about any uncertainties related to her ability to work. The Department cannot ignore the volume of evidence submitted when only one box is left unchecked on its form.

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 denied Petitioner's FIP application.

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 application if not already done;
2. Place Petitioner in a deferral status for the work requirement based upon a short-term disability from the date of application until the date upon which the Department has determined whether Petitioner was either capable of working in some capacity or Petitioner should continue to be deferred based upon a disability or other circumstance;
3. Determine if Petitioner is eligible for a continued deferral based upon a disability;
4. Issue FIP supplements to Petitioner from the date of her application through the date upon which the Department has determined whether Petitioner is capable of working or should be deferred; and,
5. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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

DHHS

Amber Gibson
MDHHS-Ingham-Hearings

Petitioner

[REDACTED]
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BSC4
B Sanborn
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