



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: April 29, 2019
MOAHR Docket No.: 19-003098
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 24, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) 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. Petitioner was an ongoing FIP benefit recipient.
2. Petitioner was previously deferred from participating in employment-related activities due to the birth of her child, but the deferral ended.
3. On December 14, 2018, Petitioner submitted a Medical Needs form (Exhibit E).
4. On December 19, 2018, Petitioner submitted a Medical Needs form (Exhibit F).

5. On December 21, 2018, Petitioner submitted a Medical Needs form (Exhibit G).
6. On January 8, 2019, Petitioner was scheduled to attend Partnership. Accountability. Training. Hope. (PATH).
7. On January 8, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective February 1, 2019, ongoing (Exhibit D). Petitioner was also advised she was subject to a three-month sanction.
8. On January 8, 2019, the Department sent Petitioner a Notice of Noncompliance informing Petitioner that she was noncompliant with PATH and a triage was scheduled on January 16, 2019 (Exhibit C).
9. On January 16, 2019, a triage was held, at which Petitioner was present, and good cause was not found (Exhibit H).
10. On January 24, 2019, Petitioner submitted an SER application for assistance with her gas utility.
11. On January 24, 2019, the Department sent Petitioner an Application Notice informing her that her SER benefit application was denied (Exhibit I).
12. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing the Department's actions related to her FIP, SER and Food Assistance Program (FAP) benefit cases.

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).

FIP

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 referred to PATH as a result of her deferral ending. Petitioner was advised she needed to attend PATH on January 8, 2019.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Penalties include case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p. 1. Noncompliance with FIP-related employment activities includes the client's failure to appear for a scheduled appointment or meeting related to assigned activities. BEM 233A, p. 2.

The Department testified that Petitioner submitted a Medical Needs form on December 14, 2018, stating she could work but with limitations. On December 19, 2018, Petitioner submitted another Medical Needs form stating she could work but had no limitations. On December 21, 2018, Petitioner submitted a Medical Needs form stating she could not work. The Department contacted the physician that signed all three Medical Needs forms. The physician confirmed that he completed the two forms submitted on December 14, 2018 and on December 19, 2018. The physician denied completing any form stating Petitioner could not work. The Department determined the Medical Needs form submitted on December 21, 2018, was fraudulent. As a result, Petitioner was referred to PATH. The Department testified that Petitioner did not attend her PATH appointment on January 8, 2019. The Department sent Petitioner a Notice of Noncompliance on January 8, 2019, stating she was noncompliant with PATH and that her triage was scheduled on January 16, 2019. The Department also sent Petitioner a Notice of Case action informing her that her FIP benefit case was going to be closed effective February 1, 2019, ongoing, and that she would be subject to a three-month sanction.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8.

The Department presented case comments from the triage, at which Petitioner was present. According to the comments, Petitioner could not provide an explanation as to who completed the December 21, 2018 Medical Needs form stating she could not work. Petitioner continued to allege she could not work. The Department did not have a valid Medical Needs form stating Petitioner could not work. The only valid documentation from a physician submitted by Petitioner was the Medical Needs forms saying she could work. As such, the Department did not find good cause for Petitioner's failure to attend PATH.

At the hearing, Petitioner continued to maintain that she did not fraudulently complete the December 21, 2018 Medical Needs form. Petitioner testified that she was not arguing that she could not work due to medical reasons. Petitioner stated that she did not have childcare, which resulted in her inability to attend PATH. When asked if she had applied for childcare assistance, Petitioner stated her family was against her taking her child to daycare. Petitioner did not have any available family members to watch her child and did not wish to take him to daycare.

Good cause for noncompliance includes that the client requested child care services from the Department, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5.

Petitioner's explanation for her failure to attend PATH was not reasonable. Petitioner did not apply for child care services, as required by policy, and did not have a legitimate reason for her failure to do so. Therefore, the Department acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a three-month sanction.

FAP

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 hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's FAP benefit case. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing related to her FAP benefit case, as no negative action had been taken at the time of the request for hearing. The Request for Hearing was withdrawn.

Pursuant to the withdrawal of the hearing request, the Request for Hearing related to Petitioner's FAP benefit case is, hereby, **DISMISSED**.

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance for energy related services to help them with household heat and electric costs. ERM 301 (October 2018), p. 1. The Department must respond to an application for crisis assistance within 48 hours. ERM 301, p.1. An energy crisis includes: (i) an individual or household has a past due account or shut-off notice on an energy bill for his or her household; (ii) a residential fuel tank is estimated to contain no more than 25% of its heating fuel capacity; or (iii) a statement from an licensed services provider indicating the homeowner's furnace is inoperable and in need of repair or replacement. ERM 301, p. 1.

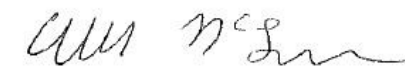
In this case, Petitioner submitted an application for SER benefits for assistance with her heat-related gas utility. The Department retrieved Petitioner's client information from [REDACTED] (Exhibit J). The document shows that Petitioner was not past due, nor was she issued a shut-off notice. Therefore, the Department acted in accordance with policy when it denied Petitioner's SER application.

DECISION AND ORDER

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 Petitioner's FIP benefit case, subjected her to a three-month sanction, and when it denied her SER application. Accordingly, the Department's decisions are **AFFIRMED**.

Petitioner's request for hearing related to her FAP benefit case is **DISMISSED**.

EM/cg



Ellen McLemore

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 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-Ingham-Hearings
G. Vail
D. Sweeney
M. Holden
T. Bair
E. Holzhausen
BSC2- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]