



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: July 3, 2019
MOAHR Docket No.: 19-005234
Agency No.: [REDACTED]
Petitioner [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

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 June 27, 2019, from Lansing, Michigan. Petitioner was represented by herself and her mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Dana Bongers, Lead Worker, Lorie Ellis, Family Independence Specialist, Theresa Ware, Family Independence Manager, and Jennifer Jones, Family Independence Specialist.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Family Independence Program (FIP) based on her PATH participation?

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 a recipient of FIP with a Department Caseworker deferral from PATH while the Medical Review Team (MRT) determined her medical eligibility for the PATH program.
2. On April 20, 2018, the MRT determined that Petitioner was capable of performing work and was capable of participating in the PATH program. Department Exhibit 1, pgs. 122-128.

3. On April 14, 2018, the Department Caseworker sent Petitioner to PATH on May 6, 2018, but she did not attend.
4. Petitioner submitted additional medical records about her current physical condition.
5. On October 9, 2018, the MRT determined that Petitioner was capable of performing light work and was capable of participating in PATH. Department Exhibit 1, pgs. 62-68.
6. On October 12, 2018, the Department Caseworker sent Petitioner to PATH on October 22, 2018, but she did not attend.
7. Petitioner submitted additional medical records about her current physical condition.
8. On April 4, 2019, the MRT determined that Petitioner was capable of performing light work and was capable of participating in PATH. Department Exhibit 1, pgs. 16-22.
9. On April 18, 2019, the Department Caseworker sent Petitioner to PATH on April 29, 2019, where she completes PATH orientation after 2 appointments, but rescheduled April 29, 2019 and May 6, 2019.
10. On May 8, 2019, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is

denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.


In this case, Petitioner is a recipient of FIP benefits, which require her to participate in the PATH program. MRT has determined that she is capable of at least light work and can participate in the PATH program. However, the Department has taken no negative action and continues to send medical records to MRT for 3 reviews that state that she can do light work. Petitioner has not been sanctioned or her case closed. Department policy is clear that after the first MRT review that Petitioner has to participate in PATH even if the Department Caseworker sends additional medical records to PATH. If Petitioner does not continue to participate, the Department can close her case or sanction her. In this case, Petitioner requested that her case be closed voluntarily before the Department closed her case or sanctioned her. As a result, the Department has not initiated any negative action against Petitioner.

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 has not initiated any negative action against Petitioner. Therefore, there has been no negative action taken by the Department and Petitioner's hearing request is, **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.

IT IS SO ORDERED.

CF/hb



Carmen G. Fahie
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

Renee Olian
322 Stockbridge
Kalamazoo, MI 49001

Kalamazoo County, DHHS

BSC3 via electronic mail

H. Norfleet via electronic mail

D. Sweeney via electronic mail

Petitioner

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