



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 12, 2019
MOAHR Docket No.: 19-005909
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 10, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared with his spouse, [REDACTED] [REDACTED] Richkelle Curney, Hearing Facilitator, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses. [REDACTED] [REDACTED] Arabic Interpreter, provided interpretation services.

One exhibit was admitted into evidence during the hearing. An 11-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate Petitioner's Family Independence Program (FIP) assistance?

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 cash assistance recipient through FIP.
2. Petitioner claimed he had a disability lasting longer than 90 days.
3. On March 12, 2019, the Department mailed a medical determination verification checklist to Petitioner to obtain information to review his eligibility for continued cash assistance. The verification checklist instructed Petitioner to provide

requested documents by March 22, 2019, including proof that he had applied for social security disability and a signed protected health information release.

4. Petitioner received the Department's verification checklist. Petitioner provided some of the requested documents, but Petitioner did not provide all of the requested documents. Petitioner did not provide proof that he had applied for social security disability and Petitioner did not provide a signed protected health information release.
5. The Department was unable to review Petitioner's eligibility or continued case assistance without the requested documents.
6. On March 29, 2019, the Department issued a notice of case action to notify Petitioner that his cash assistance was going to be closed effective May 1, 2019, because he failed to provide requested verification.
7. On May 28, 2019, Petitioner filed a hearing request to dispute the Department's decision.

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 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 Department must refer FIP clients who have a verified disability lasting longer than 90 days to the Social Security Administration (SSA) to apply for or appeal SSI. BEM 271 (January 1, 2016), p. 1. In order to be eligible for FIP, a client must apply for all state and federal benefits to which he may be entitled. BEM 270 (January 1, 2018), p. 1.

For individuals applying for FIP, verification must be obtained from SSA that an application or appeal is on file before the case is referred to the Disability Determination Service (DDS). BEM 270, p. 7. The DDS develops and reviews medical evidence for disability. BAM 815 (April 1, 2018), p. 1. Before a case is referred to DDS, an individual claiming a disability must provide requested verifications, including a signed authorization to release protected health information. BAM 815, p. 4. The Department must assist an individual with completing requested verifications when the individual is unable to complete the forms. BAM 815, p. 6. If requested verifications are not

provided, the Department must place an approved program into negative action for failure to provide requested verifications. BAM 815, p. 2.


In this case, the Department closed Petitioner's FIP assistance for failing to provide proof that he applied for SSI and for failing to provide a signed protected health information release. The Department was required to verify whether Petitioner had applied for SSI with the SSA, so the Department should not have taken negative action against Petitioner for failing to provide proof that he had applied for SSI. The Department was also required to provide assistance to Petitioner if he was unable to complete forms on his own, so the Department should not have taken negative action against Petitioner for failing to sign his protected health information release. The Department should have verified whether Petitioner had applied for SSI with the SSA, and the Department should have assisted Petitioner in completing his signed protected health information release when it noticed the form was incomplete. The Department did not act in accordance with its policies.

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 did not act in accordance with its policies and the applicable law when it terminated Petitioner's FIP.

IT IS ORDERED that the Department's decision is **REVERSED**. The Department shall verify whether Petitioner applied for SSI with the SSA, and the Department shall assist Petitioner in completing his signed protected health information release. The Department shall begin to implement this decision within 10 days.

JK/nr



Jeffrey Kemm
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

Petitioner

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