



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: August 15, 2019
MOAHR Docket No.: 19-007106
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 August 7, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was Petitioner's husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 23-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-23.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) cash assistance case, effective June 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. On [REDACTED], 2018, Petitioner submitted to the Department an application for FIP cash assistance. Petitioner claimed a disability.
2. On January 10, 2019, the Department issued to Petitioner a Form 54-E, Medical Needs – PATH document. Petitioner brought the form to her doctor, who completed the form. The doctor indicated that Petitioner was unable to work and that her limitations were expected to last for longer than 90 days. Petitioner returned the completed form to the Department on January 23, 2019. Exhibit A, pp. 1-2.

3. Because the doctor indicated that the limitation would last longer than 90 days, the Department granted Petitioner a temporary deferral from PATH and sent the matter to the Disability Determination Service (DDS) and its Medical Review Team (MRT) to determine whether Petitioner had a disability for the purposes of deferring her from PATH participation. After conducting its review, the MRT determined that Petitioner was not disabled. Exhibit A, pp. 5-6.
4. On April 1, 2019, the Department issued to Petitioner a PATH Appointment Notice informing Petitioner that she was required to attend an appointment on April 12, 2019 at 9:00 am. Petitioner was informed that failure to attend the meeting may result in the closure of her FIP cash assistance case. Exhibit A, p. 7.
5. Petitioner received the PATH Appointment Notice but did not attend the appointment.
6. On April 15, 2019, the Department issued to Petitioner a Medical Determination Verification Checklist instructing Petitioner to "PLEASE COMPLETE/RETURN THE DHS-54E ON OR BEFORE THE DATE LISTED ABOVE OR YOU MUST ATTEND THE WORKFIRST ORIENTATION UNTIL FORM IS RETURNED...PER BEM-230A." The date listed above was April 25, 2019. Exhibit A, pp. 10-11.
7. Along with the Medical Determination Verification Checklist, the Department sent to Petitioner an April 15, 2019 Form 54-E, Medical Needs – PATH document. Exhibit A, pp. 12-13.
8. Petitioner received the April 15, 2019 documents but did not return any medical documentation to the Department before or anytime near the deadline of April 25, 2019.
9. On April 24, 2019, the Department issued to Petitioner a Notice of Noncompliance informing Petitioner that she failed to meet the conditions for continued eligibility for FIP cash assistance. The notice further informed Petitioner that a meeting was scheduled to be held on April 30, 2019 at 9:00 am to determine whether Petitioner had good cause for her failure. Exhibit A, pp. 14-15.
10. Also on April 24, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP cash assistance case was closing, effective June 1, 2019, as a result of Petitioner's failure to participate in employment or self-sufficiency activities. Exhibit A, pp. 16-17.
11. Petitioner did not appear for the April 30, 2019 meeting. Exhibit A, p. 18.
12. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FIP cash assistance case.

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 submitted to the Department an application for FIP cash assistance, wherein Petitioner claimed a disability. The Department sent to Petitioner a form to bring to her doctor to fill out. Petitioner had her doctor fill out the form and returned it to the Department. Because the doctor indicated that Petitioner was unable to work and that the inability would last longer than 90 days, the Department temporarily deferred Petitioner from PATH and sent the matter to the MRT to determine whether Petitioner was eligible for a long-term deferral from participation in PATH. In March 2019, it was determined that Petitioner was not disabled.

The determination that Petitioner was not disabled caused the Department to refer Petitioner to PATH, with an initial appointment for April 12, 2019. Petitioner did not show up for that meeting. However, shortly after that meeting was scheduled to take place, Petitioner contacted the Department and informed them that she failed to attend the meeting because she was disabled. Despite the recent determination otherwise, the Department sent to Petitioner another Form 54-E to have her doctor complete. Petitioner was told that she needed to return the completed form to the Department by April 25, 2019 and that it must allege a new or worsening condition or else she would have to participate in PATH.

Petitioner received the Form 54-E but did not follow the instructions of either the document or the worker she spoke with. Due to Petitioner's inaction and failure to participate in PATH, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP cash assistance case was closing effective June 1, 2019. Along with that document, the Department issued a Notice of Noncompliance informing Petitioner that a meeting was set up for April 30, 2019 to discuss Petitioner's failure to fulfill her requirements. Petitioner failed to attend the meeting, and it was found that Petitioner's noncompliance with the program requirements were not supported by good cause. As a result of that finding, the closure of Petitioner's FIP cash assistance case was allowed to proceed, effective June 1, 2019. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FIP cash assistance case.

When an individual claims a disability or indicates an inability to participate in work or work-related activities for more than 90 days, the client is granted a deferral. BEM 230A p. 11. The client will then begin the process of being referred to DDS for a disability determination. BEM 230A, pp. 12-13. BAM 815 outlines medical determination procedures followed by the Department. BAM 815 (April 2018), pp. 2-7. Upon DDS determining that an individual is not disabled, the individual is considered work eligible and 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. Noncompliance includes failing or refusing to appear and participate in PATH or other employment service provider. BEM 233A, p. 2. 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.

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.

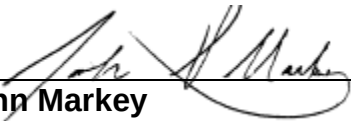
Petitioner claimed a disability, and the Department appropriately deferred her from participation in PATH while referring the matter to DDS. Upon DDS determining that Petitioner was not disabled, Petitioner was appropriately informed of her eligibility requirements as a WEI. Petitioner failed, without good cause, to participate in employment or self-sufficiency-related activities by not going to the PATH appointment or otherwise doing anything to establish that she was meeting the requirements. Prior to closing Petitioner's case, it scheduled a triage appointment to discuss good cause. Petitioner failed to attend that meeting, and based on the information it had, the Department determined that good cause did not exist. Pursuant to Department policy, the Department then closed Petitioner's FIP cash assistance case.

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 cash assistance case, effective June 1, 2019.

DECISION AND ORDER

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

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-19-Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner

[REDACTED]