



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] MI [REDACTED]

Date Mailed: August 22, 2019
MOAHR Docket No.: 19-007539
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 14, 2019, from [REDACTED] Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's mother, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Ann Colbert, specialist, and Marlon Dorsey, supervisor.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application dated July 2, 2019, requesting Family Independence Program (FIP) benefits.

The second issue is whether Petitioner timely requested a hearing to dispute a termination of FIP effective March 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 March 11, 2011, MDHHS imposed a first employment-related disqualification against Petitioner.
2. On June 19, 2014, MDHHS imposed a second employment-related disqualification against Petitioner.
3. As of January 2019, Petitioner was an ongoing recipient of FIP benefits.

4. On January 17, 2019, MDHHS terminated Petitioner's MA eligibility beginning March 2019 and imposed a third disqualification against Petitioner.
5. On July 2, 2019, Petitioner applied for FIP benefits.
6. On July 2, 2019, MDHHS denied Petitioner's request for FIP benefits due to three lifetime disqualifications.
7. On July 8, 2019, Petitioner requested a hearing to dispute the termination of FIP benefits and denial of her subsequent application. Exhibit A, pp. 13-14

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of her FIP application dated July 2, 2019. A Notice of Case Action dated July 2, 2019, stated that MDHHS denied Petitioner's application due to three previous FIP disqualifications. Exhibit A, pp. 3-7.

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of childcare, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A (July 2018), p. 1. Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), and/or 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. *Id.*

As of Petitioner's application date, MDHHS imposed three previous disqualifications against Petitioner. MDHHS testimony credibly stated that the disqualifications were dated March 11, 2011; June 19, 2014; and January 17, 2019. The previous disqualifications result in a lifetime disqualification for Petitioner. Due to a lifetime penalty, MDHHS properly denied Petitioner's application dated July 2, 2019.

Petitioner also requested a hearing disputing the third and most recent FIP disqualification. MDHHS testimony credibly stated that written notice of the disqualification was mailed to Petitioner on January 17, 2019.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (August 2018), p. 6. Generally,

hearing requests must be submitted to MDHHS in writing though requests for Food Assistance Program benefit hearings may be made orally. *Id.*

Petitioner requested a hearing on July 2, 2019. Petitioner's hearing request was submitted 166 days after MDHHS mailed Petitioner written notice of the third FIP disqualification. Thus, Petitioner's hearing request was untimely.

Petitioner's mother credibly testified that Petitioner was hospitalized from [REDACTED] 2018, to [REDACTED] 2019, due to a stroke. The testimony implied that Petitioner should be excused from timely requesting a hearing. Despite the sympathetic circumstances, Petitioner's hearing request was submitted several months after her hospital release. Thus, Petitioner should have had ample time to meet the 90-day timeframe to dispute her third FIP disqualification. Perhaps more importantly, MDHHS' policy makes no exceptions for untimely hearing requests. Given the evidence, Petitioner's hearing request will be dismissed concerning the termination of FIP eligibility, effective March 2019.

Petitioner's hospitalization for over one month was not persuasive in excusing her untimely hearing request. A hospitalization exceeding one month could be very persuasive evidence of good cause for employment-related activity noncompliance. MDHHS testimony indicated that Petitioner's mother was one day too late in submitting proof of her daughter's hospitalization in order to establish good cause for her daughter. This decision does not preclude MDHHS from voluntarily reconsidering that Petitioner's five week hospitalization was good cause for the third employment-related noncompliance.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely dispute a termination of FIP benefits effective March 2019 resulting in Petitioner's third employment-related noncompliance. Concerning the closure of FIP benefits and third employment noncompliance, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FIP application dated July 2, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

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 Electronic Mail
DHHS

Kimberly Kornoelje
MDHHS-Kent-Hearings

BSC4
B Sanborn
M Schoch

Via First Class Mail
Petitioner

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