



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]
[REDACTED]

Date Mailed: August 27, 2019
MOAHR Docket No.: 19-007799
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 21, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED]; Hearing Facilitator, and [REDACTED]; Team Lead.

ISSUE

Did the Department properly closed Petitioner's Family Independence Program (FIP) benefits effective August 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. Petitioner was a recipient of FIP benefits.
2. On July 3, 2019, Petitioner reported that she lost her employment.
3. On July 3, 2019, the Department sent Petitioner a Notice of Noncompliance which scheduled a good cause meeting for July 9, 2019.
4. Also, on July 3, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FIP benefits would close effective August 1, 2019 for failing to establish good cause for her loss of employment.
5. Petitioner did not receive the Notice of Noncompliance until July 10, 2019 and thus, did not attend the July 9, 2019 good cause meeting.

6. Due to Petitioner's failure to attend the July 9, 2019 meeting, the Department determined that Petitioner failed to establish good cause for her loss of employment.
7. On July 11, 2019, Petitioner filed a Request for Hearing disputing the Department's actions.

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.

MDHHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause. BEM 233A (July 2018), p. 1.

A Work Eligible Individual (WEI) and non-WEIs who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. 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).
- 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.*

In this case, Petitioner reported to the Department that she quit her work because she knew that her employment would be terminated. The Department sent a Verification of Employment to Petitioner's employer. Petitioner's employer indicated that she had been fired due to her attendance. On July 3, 2019, the Department sent Petitioner a Notice of Noncompliance which scheduled a triage appointment for July 9, 2019. The Department further testified that Petitioner failed to appear for the triage and as a result, it determined that she failed to establish good cause for her non-compliance.

The purpose of the triage meeting is to allow the client an opportunity to establish good cause. Under Department policy, good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 223A, p. 4. Petitioner testified that she did not receive the Notice of Noncompliance with the triage appointment until July 10, 2019. In support of this assertion, Petitioner provided a copy of the envelope which she indicated the notice was sent. The envelope contained the date of July 8, 2019. If the notice was not mailed until July 8, 2019, it is likely that it was not received until July 9, 2019.

The Department testified to several documents it mailed Petitioner on July 3, 2019 and July 4, 2019. However, the Department did not show any mailings on July 8, 2019. The next mailing that the Department identified was sent on July 16, 2019. The Department testified that the Notice of Noncompliance was mailed from its Central Print office. As such, although the notice was dated for July 3, 2019, it is possible that it was not mailed until July 8, 2019. Without any evidence to the contrary, Petitioner's testimony that she did not receive the Notice of Noncompliance until July 10, 2019 is accepted as true.

Petitioner testified that she worked for the employer in question for five days. Petitioner acknowledged that she was late on the first day without an acceptable explanation. However, Petitioner testified that she was fired from employment on her fifth day of work because she was unable to secure childcare. Petitioner explained that she lives in a rural area and because she worked from 3:00 p.m. to 9:00 p.m., she was unable to secure daycare. Petitioner also testified that her car was inoperable during this time. Accordingly, it is found that Petitioner may have been able to establish good cause if she had been provided enough notice of the triage meeting. Because the Department failed to provide Petitioner with enough notice of the triage, it is found that it improperly closed Petitioner's FIP benefits.

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 Department policy when it closed Petitioner's FIP benefits effective August 1, 2019 for failure to establish good cause for noncompliance.

DECISION AND ORDER

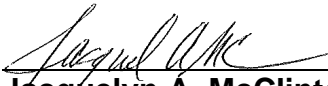
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the lifetime sanction from Petitioner's FIP case;
2. Reinstate Petitioner's FIP benefits effective August 1, 2019;

3. If Petitioner was eligible for supplements, issue FIP supplements that Petitioner was eligible to receive but did not effective August 1, 2019; and
4. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]