



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: October 3, 2019
MOAHR Docket No.: 19-009372
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 September 30, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Brad Reno, Hearing Facilitator and Chris Card, Triage Coordinator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

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 an ongoing FIP recipient.
2. Effective July 1, 2019, Petitioner stopped participating in employment-related activities (Exhibit A, p. 62).
3. On August 9, 2019, the Department sent Petitioner a Notice of Noncompliance, informing her that a triage appointment was scheduled on August 21, 2019 (Exhibit A, pp. 47-49).
4. On August 9, 2019, the Department sent Petitioner a Notice of Case Action (NOCA), informing her that her FIP benefit case was closing effective September

- 1, 2019, ongoing, and that she was subject to a three-month sanction (Exhibit A, pp. 50-54).
5. On August 21, 2019, a triage meeting was held, at which Petitioner was present, and good cause was not established (Exhibit A, p. 57).
 6. On [REDACTED] 2019, Petitioner submitted 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.

In this case, Petitioner was an ongoing FIP recipient. Petitioner was participating in employment-related activities for a mandatory 20 hours per week through June 30, 2019.

As a condition of continued FIP eligibility, work eligible individuals are 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. 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.

The Department testified that Petitioner's FIP benefit case closed because she ceased her participation in employment-related activities as of July 1, 2019. As a result, the Department sent Petitioner a Notice of Noncompliance on August 9, 2019, stating she was noncompliant, and that her triage was scheduled on August 21, 2019. The Department also sent Petitioner a Notice of Case action informing her that her FIP benefit case was going to be closed effective September 1, 2019, ongoing, and that she would be subject to a three-month sanction.

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.

The Department testified that Petitioner attended the triage meeting. The Department contended that multiple attempts were made to encourage Petitioner's participation in employment-related activities. The Department stated that Petitioner did not report any barriers to her participation in employment-related activities. The Department stated that Petitioner did not provide any information or documentation to support a finding of good cause.

At the hearing, Petitioner acknowledged that she stopped attending her employment-related activities. Petitioner stated that she did not have childcare and could not bring her children to her employment-related activities. Petitioner testified that she was notified by the Department of the availability of childcare benefits. Petitioner stated that she did not apply for childcare assistance because she did not trust others to care for her children.

Good cause for noncompliance includes that the client requested child care services from the Department, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5.

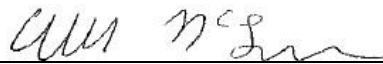
Petitioner conceded that she failed to attend her employment-related activities. Petitioner also acknowledged that she did not seek any childcare assistance through the Department or any other service provider. Therefore, Petitioner did not have good cause for her noncompliance. Thus, the Department acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a three-month sanction.

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 acted in accordance with Department policy when it closed Petitioner's FIP benefit case and subjected her to a three-month sanction.

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

EM/cg

A handwritten signature in dark ink, appearing to read "EM McLemore", is written over a horizontal line.

Ellen McLemore

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-Genesee-Union St.-Hearings
G. Vail
D. Sweeney
BSC2- Hearing Decisions
MOAHR

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]