



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: October 8, 2019
MOAHR Docket No.: 19-009655
Agency No.: ██████████
Petitioner: ██████████

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 October 2, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Chantel Wilbon, lead specialist, and Jeffrey Lemiux, employment and training coordinator.

ISSUES

The first issue is whether MDHHS complied with an administrative hearing decision concerning Family Independence Program (FIP) benefits.

The second issue is whether Petitioner timely requested a hearing to dispute a termination of FIP benefits.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of December 2018, Petitioner was an ongoing recipient of FIP benefits.
2. On December 31, 2018, MDHHS initiated termination of Petitioner's FIP eligibility, effective February 2019, due to Petitioner's alleged noncompliance with employment-related activities.

3. On April 8, 2019, an administrative law judge (ALJ) found that Petitioner had good cause for not participating in Partnership. Accountability. Training. Hope. (PATH) due to mental and/or physical unfitness. The ALJ also ordered MDHHS to reinstate Petitioner's FIP benefits and to issue a supplement for benefits improperly not issued.
4. On April 15, 2019, MDHHS mailed Petitioner a PATH Appointment Notice to attend PATH orientation on April 24, 2019.
5. On April 16, 2019, MDHHS approved Petitioner for FIP benefits beginning February 2019 and issued FIP supplements from February 2019.
6. On April 24, 2019, Petitioner did not attend PATH orientation.
7. On May 4, 2019, MDHHS initiated termination of Petitioner's FIP eligibility, effective June 2019., due to employment-activity noncompliance.
8. On September 3, 2019, Petitioner requested a hearing to dispute the closure of FIP benefits, in part, by contending that MDHHS failed to comply with the ALJ order dated April 8, 2019.

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 termination of FIP benefits. A Notice of Case Action dated May 4, 2019, stated that Petitioner's FIP eligibility ended June 2019 due to her employment-related noncompliance. It was not disputed that the termination occurred after MDHHS sent Petitioner to PATH in April 2019 and Petitioner failed to attend. Petitioner provided two arguments to dispute the closure of FIP benefits.

First, Petitioner contended that MDHHS violated an administrative hearing order by sending her to PATH in April 2019. Petitioner's contention is based on the belief that an ALJ recently determined that she was disabled and, therefore, incapable of attending PATH. Petitioner's contention frames a dispute of whether MDHHS complied with an administrative hearing decision.

MDHHS has 10 days from the date that a Hearing Decision was mailed to complete an Administrative Hearing Order Certification which certifies compliance. BAM 600

(October 2018), p. 11. Petitioner essentially argues that MDHHS failed to comply with the order dated 4/8/19.

In a Hearing Decision dated April 8, 2019, an ALJ stated that Petitioner was once deferred from PATH participation due to disability. Exhibit A, pp. 6-9. The ALJ also stated that documentation from Petitioner's physician submitted during the hearing supported Petitioner's claim that she was unable to participate with PATH. The ALJ ultimately concluded that, "Petitioner has good cause for failing to participate with PATH because she is physically and mentally unfit to participate with PATH due to her disabilities." Petitioner interpreted the ALJ's statements as a finding that she was disabled and should not be sent back to PATH. Petitioner's interpretation has some validity but is ultimately not supported by the Hearing Decision.

The ALJ found that Petitioner had good cause for not attending PATH but did not find that MDHHS improperly sent Petitioner to PATH. A finding of good cause for not attending PATH allows a client to be excused for previous alleged noncompliance but has no bearing on future eligibility. BEM 233A (July 2018), pp. 4-7.

An ALJ's intent should be most apparent in an administrative order. The ALJ ordered MDHHS to reinstate Petitioner's FIP case and to issue supplements for missed benefits. MDHHS provided a notice that Petitioner's FIP eligibility was reinstated beginning February 2019. Exhibit A, pp. 10-13. MDHHS also provided documentation that FIP supplements were issued from February 2019 on April 16, 2019. Exhibit A, p. 14. Notably, the ALJ did not order MDHHS to defer Petitioner from future PATH participation. The absence of such an order supports the conclusion that the ALJ did not intend to defer Petitioner from future PATH participation.

Given the evidence, MDHHS complied with the administrative order dated April 8, 2019. Thus, MDHHS did not err by not deferring Petitioner from future PATH participation.

Petitioner's second argument concerning the termination of FIP benefits is that she should have been deferred from PATH participation and/or should be given good cause for her failure to participate in PATH activities. A procedural obstacle prevents consideration of Petitioner's arguments.

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. *Id.*, p. 2.¹

MDHHS mailed written notice of closure to Petitioner on May 4, 2019. Exhibit A, pp. 20-23. Petitioner requested a hearing on September 3, 2019, which is 122 days after written notice was issued. MDHHS policy does not allow for good cause for tardily submitted hearing requests. Petitioner's delay in requesting a hearing precludes

¹ Verbal requests are allowed for disputes of Food Assistance Program benefits.

administrative hearing oversight of whether the actions taken by MDHHS were proper. Due to her untimely submission disputing FIP termination, Petitioner's hearing request must be dismissed.

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 beginning June 2019. Concerning a dispute over the termination of FIP benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS complied with a Hearing Decision dated April 8, 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

DHHS (via electronic mail)

Gregory Folsom
MDHHS-Genesee-Clio-Hearings
BSC2
B Sanborn
M Schoch
G Vail
D Sweeney

Petitioner (via first class mail)

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