



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]

Date Mailed: November 20, 2019
MOAHR Docket No.: 19-011287
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 November 13, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Ryan Clemons, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case and subject her to a 3-month sanction?

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. Petitioner was satisfying her FIP employment-related activities requirement by working and job searching 30 hours per week.
3. During the weeks of August 11, 2019 through August 18, 2019; August 25, 2019 through August 31, 2019; and September 1, 2019 through September 7, 2019, the Department determined that Petitioner did not complete the required 30 hours of employment-related activities (Exhibit A, p. 34).
4. On September 19, 2019, a reengagement meeting was scheduled, at which Petitioner was not present (Exhibit A, p. 34).

5. On September 19, 2019, the Department sent Petitioner a Notice of Noncompliance (Exhibit A, pp. 46-48). The notice states a triage was to be held on September 19, 2019.
6. On September 30, 2019, a triage was conducted, at which Petitioner was present (Exhibit A, p. 34). Good cause was not established.
7. On October 3, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective November 1, 2019, ongoing (Exhibit A, pp. 49-52). Petitioner was subject to a 3-month sanction (Exhibit A, p. 53).
8. 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 satisfying her FIP employment-related activities requirement by working and job searching 30 hours per week.

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. Noncompliance with self-sufficiency-related activities includes failing to appear and participate with Partnership.Accountability.Training.Hope. (PATH) or other employment or other 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.

The Department testified that Petitioner submitted a pay statement showing that during the week of August 11, 2019 through August 18, 2019, she only worked 20 hours. The Department alleged Petitioner did not submit any documentation showing she participated in job searches for the 10 remaining hours for that week. Additionally, the Department contended that Petitioner did not submit any verification that she participated in any employment-related activities for the weeks of August 25, 2019 through August 31, 2019 and September 1, 2019 through September 7, 2019. The Department scheduled a reengagement meeting with Petitioner on September 19, 2019, to discuss her participation in employment-related activities. Petitioner did not attend the September 19, 2019 reengagement meeting. As a result, the Department placed Petitioner in noncompliance.

At the hearing, Petitioner argued that she satisfied her 30 hours for all of the weeks in question. Petitioner stated that during the week of August 11, 2019 through August 18, 2019, she worked 20 hours. Petitioner stated she performed job searches for the remaining 10 hours. Petitioner stated she submitted an Outside Job Search Contact Log showing the 10 hours she performed work search. During the week of August 25, 2019 through August 31, 2019, Petitioner provided a pay statement showing she worked 19 hours (Exhibit A, p. 59). Petitioner stated she made up the remaining hours with job search. For the week of September 1, 2019 through September 7, 2019, Petitioner present an Outside Job Search Contact Log showing she performed job searches for 13.5 hours during that week. Petitioner testified that she worked the remaining required hours for that week. Petitioner testified that she submitted verification to the Department of her completed 30 hours of employment-related activities for the weeks in question.

The Department contended that Petitioner did not submit any verification showing that she completed any hours of employment-related activities during the weeks of August 25, 2019 through August 31, 2019 and September 1, 2019 through September 7, 2019. Petitioner presented documentation that refutes that testimony. Upon review of Petitioner's Electronic Case File (ECF), there were a number of submissions titled "unspecified written statement," "other unspecified document," and "other income verification" between September 20, 2019 and September 26, 2019. Based on the evidence presented, it appears that Petitioner did complete at least some of the required hours during the weeks in question. Therefore, the Department's testimony that Petitioner completed zero hours during two of the weeks is inaccurate. As such, the Department's contention that Petitioner failed to complete the 30 hours for the three weeks in question is not credible. Additionally, Petitioner submitted medical documentation showing that she had a doctor's appointment on September 19, 2019, the date of the reengagement meeting (Exhibit A, p. 32). Thus, the Department failed to establish that Petitioner was noncompliant with employment related activities. As it follows, the Department failed to establish that it acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a 3-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 failed to

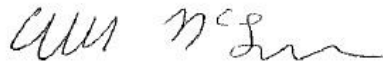
satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefit case and subjected her to a 3-month sanction.

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. Redetermine Petitioner's FIP eligibility as of November 1, 2019, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements she is entitled to receive;
3. Remove all employment-related noncompliance penalties from Petitioner's FIP benefit case on or about November 1, 2019; and
4. Notify Petitioner of its FIP decision in writing.

EM/cg



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-Washtenaw-20-Hearings
G. Vail
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]