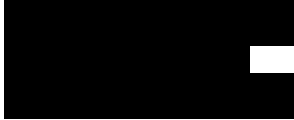




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: January 24, 2020
MOAHR Docket No.: 19-013328
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 January 22, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

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. On December 3, 2019, the Department sent Petitioner a Notice of Noncompliance informing her that she was noncompliant due to her failure to participate in a required activity (Exhibit A, pp. 14-16).
3. On December 3, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective January 1, 2020, ongoing, due to her failure to participate in employment related activities and that she was subject to a three month sanction (Exhibit A, pp. 17-21).

4. On [REDACTED], 2019, Petitioner attended a triage meeting. The Department alleged good cause was not found.
5. On December 17, 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 requested a hearing to dispute the Department's decision to close her FIP benefit case. The Department testified that Petitioner failed to engage in employment/self-sufficiency-related-activities, resulting in her noncompliance.

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 had very little information as to why Petitioner was determined to be noncompliant with self-sufficiency-related activities. The Department presented no evidence to support its assertion that Petitioner was noncompliant. The Department merely stated that Petitioner acknowledged that she was noncompliant.

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 a triage meeting was held on [REDACTED], 2019, at which Petitioner was present. According to the Hearing Summary, Petitioner did not establish good cause for her noncompliance. Therefore, Petitioner's FIP benefit case closed effective January 1, 2020, ongoing, and she was subject to a three-month sanction. The Department did not know why good cause was not found.

Petitioner testified that she did fail to engage in self-sufficiency-related activities between the period of November 25, 2019 through December 8, 2019. Petitioner testified that she attended a court proceeding on November 25, 2019 and was evicted from her residence. Petitioner stated she was given until December 9, 2019 to vacate the premises. Additionally, Petitioner testified that she was informed of a death in the family on November 25, 2019. Petitioner stated that she was residing with family out of town until her return on December 8, 2019. Petitioner testified that she stayed at a homeless shelter for several days before she could find housing.

The Department did not present a witness with firsthand knowledge of Petitioner's case. The Department did not provide sufficient evidence to establish that Petitioner was noncompliant with self-sufficiency-related activities. The Department did not present documentation to verify Petitioner did not attend the required activities during the weeks in which she was found noncompliant, such as the activity logs to show Petitioner was absent. The Department also did not provide a witness that was present at the triage meeting to explain why good cause was not established. The Department did not present sufficient evidence that Petitioner was noncompliant or that good cause for the noncompliance was not established. Additionally, Petitioner testified that she was homeless. Per policy, homelessness is sufficient to establish good cause for noncompliance. BEM 233A, p. 5. Therefore, 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 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 failed to establish that it acted in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a three-month sanction.

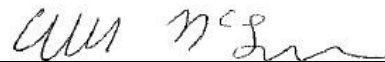
Accordingly, the Department's decision is **REVERSED**.

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 January 1, 2020, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not as from January 1, 2020, ongoing;
3. Remove all self-sufficiency-related noncompliance penalties from Petitioner's FIP benefit case on or about January 1, 2020; 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-Wayne-41-Hearings
G. Vail
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

