



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: February 6, 2020
MOAHR Docket No.: 19-013709
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 February 5, 2020 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator, and Rollin Carter, Hearings Facilitator. During the hearing, a 23-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-23.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) cash assistance case and subject him to a six-month sanction?

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits, effective [REDACTED] 2020?

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 recipient of FIP cash assistance and FAP benefits from the Department. Petitioner's household includes himself and his minor child.
2. In [REDACTED] Petitioner submitted to the Department a completed Medical Needs – PATH, form DHS-54-E. The document was filled out by a medical professional

and indicated that Petitioner would be unable to work for a period of three months due to a medical condition. Exhibit A, pp. 6-7.

3. Upon receiving the Medical Needs – PATH form, the Department deferred Petitioner from work-related activity for June, July, and August 2019.
4. On [REDACTED], 2019, the Department issued to Petitioner a PATH Appointment Notice informing Petitioner that he was required to attend an [REDACTED] 2019 meeting at Michigan Works! in Saginaw, Michigan. The appointment was scheduled for 8:30 am. The document included a clear warning that failure to attend the appointment could result in sanction. Exhibit A, p. 15.
5. Petitioner did not attend the [REDACTED], 2019 PATH meeting.
6. On [REDACTED], 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FIP case would be closed, effective [REDACTED], as a result of Petitioner's noncompliance with the work requirements. It further informed Petitioner that his FIP case was sanctioned for six months upon a second instance of noncompliance. Exhibit A, pp. 21-23.
7. On [REDACTED] 2019, the Department issued to Petitioner a Notice of Noncompliance informing Petitioner of a triage meeting that would take place on [REDACTED] 2019. The purpose of the hearing was to determine whether Petitioner had good cause for noncompliance for missing the [REDACTED] 2019 appointment with PATH. It was explained in the document that if there was no good cause for noncompliance, the FIP cash assistance case and FAP case would be sanctioned for a period of six months as it would be the Department's second sanction for noncompliance. Exhibit A, pp. 16-18.
8. Petitioner did not attend the [REDACTED], 2019 meeting.
9. On [REDACTED], 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was eligible for [REDACTED] in monthly FAP benefits, effective [REDACTED] 2020. The document further informed Petitioner that his FAP benefits were being determined on a basis of a household of one due to Petitioner being disqualified from the group for noncompliance with work requirements. As this was the second instance of noncompliance, the sanction was to last six months. Exhibit A, pp. 19-20.
10. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to 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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner objected to the Department's determination that he was noncompliant with FIP and FAP work requirements, resulting in the closure of his FIP cash assistance case and reduction of his FAP benefits. As Petitioner already had one previous noncompliance sanction for each program, Petitioner's FIP and FAP cases were subjected to a six-month sanction.

The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (October 2019), p. 1. When cash assistance is requested for a dependent child or a dependent child is a mandatory FIP group member, that child's legal parent must be included in the FIP group. BEM 210 (April 2019), p. 5. As a condition of continued FIP eligibility, work eligible FIP group members 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, p. 1; BEM 233A (July 2018), 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 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. If a client is an active recipient of FIP and FAP benefits and is found to be noncompliant with the FIP work requirements, the Department must sanction the FAP case. BEM 233B (January 2019), p. 1. In those instances, the person is disqualified from the FAP group for a period of one month for a first occurrence and six months for subsequent occurrences. BEM 233B, p. 6.

Before closing a client's FIP case and sanctioning a client's FAP 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; BEM 233B, pp. 2-3. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10; BEM 233B, pp. 2-3. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are beyond the control of the individual. BEM 233A, p. 4. 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.

Petitioner acknowledged having received the [REDACTED] 2019 PATH Appointment Notice and the [REDACTED], 2019 Notice of Noncompliance. Each of those documents informed Petitioner that he was required to participate in work-related activities and that failure to do so would result in the sanctioning of his FIP and FAP cases. Petitioner did not show up for the initial appointment on [REDACTED], 2019. On [REDACTED], 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FIP cash assistance case was going to close, effective [REDACTED], 2019. Petitioner then failed to show up for the [REDACTED] 2019 appointment that was scheduled to give Petitioner the opportunity to explain to the Department why he missed the [REDACTED], 2019 meeting. During the relevant time period from [REDACTED], 2019 through at least [REDACTED], 2019, Petitioner did not make any effort to communicate with the Department or address the notices informing him of the meetings or requirements. On [REDACTED] 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP benefits were being reduced to \$[REDACTED] per month as a result of Petitioner being disqualified for failing to participate in work-related activities.

Petitioner was clearly informed of the appointments and the consequences for failing to attend. Petitioner did not attend. Petitioner was given an opportunity to explain why he did not attend and chose not to exercise that option. When asked at the hearing why he did not attend or communicate with the Department in any way during the relevant time period, Petitioner explained that he did not think he would need to because of the documentation he had submitted back in [REDACTED] 2019. Petitioner missed the meetings because he ignored the notices. The reason for missing the meetings was entirely within the control of Petitioner. Thus, Petitioner did not have good cause for noncompliance.

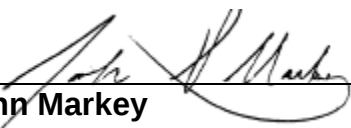
Petitioner's FIP and FAP cases were already sanctioned once before. Because of the second instance of noncompliance with work-related activities, Petitioner's FIP and FAP cases were appropriately sanctioned for six months, resulting in the closure of Petitioner's FIP case, effective [REDACTED], 2019, and reduction of Petitioner's FAP benefits, effective [REDACTED], 2020. Petitioner was properly removed from the FAP group, and the remaining group of one was found to be eligible for the maximum benefit amount for a group of one.

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 found Petitioner to be noncompliant with work-related activities for the second time, resulting in the imposition of sanctions on Petitioner's FIP and FAP benefits cases.

DECISION AND ORDER

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

JM/tm



John Markey
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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

cc: FIP (PATH) – G. Vail; D. Sweeney
FAP: M. Holden; D. Sweeney
AP Specialist (2)