



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: July 3, 2019
MOAHR Docket No.: 19-005215
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 June 26, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearings Facilitator, and Lashana Chuney, Eligibility Specialist. During the hearing, two multi-page packets of documents were offered and admitted into evidence as Exhibit A, pp. 1-17, and Exhibit B, pp. 1-21.

ISSUE

Did the Department properly determine Petitioner's eligibility for cash assistance under the Family Independence Program (FIP) for the month of April 2019?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2019, Petitioner submitted to the Department an application for FIP cash assistance. Exhibit B, p. 5.
2. On April 2, 2019, the Department issued to Petitioner a PATH Appointment Notice informing Petitioner that she had to participate in the program in order to be eligible for FIP cash assistance. Exhibit B, p. 7.
3. Petitioner fulfilled all of the requirements of the mandatory application eligibility period.

4. On April 2, 2019, the Department issued to Petitioner a Verification Checklist requiring Petitioner to provide to the Department, in relevant part, verifications related to her four minor children's school attendance. Accompanying the Verification Checklist were forms Petitioner could use to gather the information and return to the Department. The required verifications were due by April 12, 2019. Exhibit A, pp. 1-10.
5. On or about April 11, 2019, Petitioner submitted to the Department documents related to the school attendance of each of her four children. According to the Department witnesses, those documents included three report cards and one progress report. However, the documents submitted by the Department consist of what appears to be one progress report and three blacked out documents. Presumably, the quality of the copies was compromised at some point between Petitioner turning them in and their arrival at the Michigan Office of Administrative Hearings and Rules. Exhibit A, pp. 11-14.
6. On April 15, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application was denied because "NO VERIFICATION OF SCHOOL ATTENDANCE FOR DAVEON RETURNED BY DUE DATE OF 04/12/2019 AS REQUIRED." Notably, at no point prior to denying the application was Petitioner informed that her timely submissions on April 11, 2019 were insufficient to satisfy the requirement. Exhibit A, pp. 15-17.
7. On April 17, 2019, Petitioner once again applied for FIP cash assistance. Exhibit B, p. 6.
8. On May 1, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP cash assistance application was approved, effective May 1, 2019. Exhibit B, pp. 8-10.
9. On May 13, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of her March 18, 2019 FIP cash assistance application and subsequent actions which resulted in Petitioner not receiving FIP cash assistance for the month of April 2019. Along with the hearing request, Petitioner provided evidence of school attendance for her children. Exhibit B, pp. 2-3; 12-20.

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 applied for FIP cash assistance on March 18, 2019. On April 2, 2019, the Department issued to Petitioner a PATH Referral Notice. Petitioner timely complied with all of the requirements. Also on April 2, 2019, the Department issued the Verification Checklist requesting information related to her children's school attendance by April 12, 2019. On April 11, 2019, Petitioner submitted to the Department school attendance related documents relating to each of her four children. On April 15, 2019, the Department denied Petitioner's application for FIP cash assistance because Petitioner's submissions were deemed insufficient to verify the children's attendance. Petitioner then applied again, and the Department approved Petitioner's FIP cash assistance, effective May 1, 2019. Petitioner filed a hearing request objecting to the initial denial, which resulted in Petitioner not getting FIP cash assistance for the month of April 2019.

The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (July 2018), p. 1. Provided the client meets all eligibility requirements, the Department must begin assistance in the pay period in which the application becomes 30 days old. BAM 115 (April 2019), p. 27. If the application becomes 30 days old and the group has not met eligibility requirements, the Department must begin assistance for the first pay period when it does. BAM 115, p. 27. In order to be eligible, the client must fulfill the client's initial PATH application eligibility period and comply with all requests for information. BAM 115, p. 27; BAM 130 (April 2017), p. 1; BEM 230A, p. 5.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Pursuant to law and Department policy, if Petitioner met all eligibility requirements, Petitioner's March 18, 2019 FIP cash assistance application should have resulted in Petitioner starting to receive FIP cash assistance during the month of April 2019. According to the Department, Petitioner met the requirements with respect to FIP. The

Department denied the application, however, because it deemed Petitioner's April 11, 2019 submissions insufficient. Sufficiency, however, is not a trigger for the Department to send a negative action notice. The Department may only send negative action when the client either indicates a refusal to provide the verification or the time period has elapsed and no reasonable effort was made to provide the verification. Petitioner never indicated an unwillingness to provide the requested information. Additionally, Petitioner's submission was timely and demonstrated a reasonable effort to provide the verifications. After all, there were contemporaneous documents issued by the schools the children attend that would only be issued to children who were enrolled in the school. While they may not satisfy the Department's needs, they certainly are somewhat responsive to the request. As there was no refusal to provide the documents nor did the time limit pass without Petitioner making a reasonable effort, the Department was prohibited from issuing a negative case action.

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 did not act in accordance with Department policy when it denied Petitioner's March 18, 2019 FIP cash assistance application.

DECISION AND ORDER

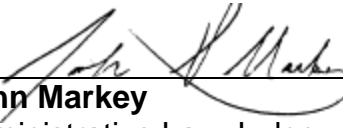
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's FIP cash assistance application back to the date of the application;
2. If there are any eligibility-related factors that are unclear, incomplete, inconsistent, or contradictory, issue to Petitioner requests for verification pursuant to Department policy;
3. If Petitioner is eligible for additional FIP benefits that were not provided, promptly issue to Petitioner a supplement; and

4. Notify Petitioner in writing of its decisions.

JM/cg



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

Via Email:

MDHHS-Wayne-31-Hearings
B. Sanborn
B. Cabanaw
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-class Mail:

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