



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: January 24, 2018  
MAHS Docket No.: 17-015916  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on January 10, 2018, from Lansing, Michigan. The Petitioner represented herself and her mother, [REDACTED], testified on her behalf. The Department was represented by Krista Hainey, Family Independence Manager, and Yazmin Fernandez, Eligibility Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for cash assistance?

**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], 2017, the Department received Petitioner's application for cash assistance. Exhibit A, pp 1-26.
2. Petitioner reported to the Department that she is not blind or disabled. Exhibit A, p 11.
3. Department records indicate that Petitioner's cash assistance was sanctioned for noncompliance with self-sufficiency activities on June 1, 2013, June 1, 2014, and July 1, 2015. Exhibit A, p 27.
4. On May 19, 2015, the Department sent Petitioner notice that she had been found to be noncompliant with self-sufficiency activities for the third time. Exhibit A, pp 30-31.

5. On November 2, 2017, the Department received Petitioner's request for a hearing protesting the denial of her application for cash assistance.

### **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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by Michigan Department of Health and Human Services (MDHHS) when the client applies for cash assistance. The Partnership. Accountability Training. Hope. (PATH) program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. Department of Health and Human Services Bridges Eligibility Manual (BEM) 229 (October 1, 2015), p 1.

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (April 1, 2016), p 1.

The Department will disqualify a Food Assistance Program (FAP) group member for noncompliance when all the following exist:

- The client was active both FIP/RCA and FAP on the date of the FIP/RCA noncompliance.
- The client did not comply with FIP/RCA employment requirements.
- The client is subject to a penalty on the FIP/RCA program.

- The client is not deferred from FAP work requirements.
- The client did not have good cause for the noncompliance.
- Department of Health and Human Services Bridges Eligibility Manual (BEM) 233B (July 1, 2013), p 3.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Petitioner was found to be noncompliant with required self-sufficiency activities on June 1, 2013, and June 1, 2014. On May 19, 2015, the Department notified Petitioner that she had been found to be noncompliant with required self-sufficiency activities for a third time. Petitioner's November 2, 2017, request for a hearing is not timely with respect to the May 19, 2015, notice of noncompliance.

On August 28, 2017, the Department received Petitioner's application for cash assistance. Petitioner reported to the Department that she is not blind or disabled. Therefore, Respondent is not eligible for SDA benefits.

Petitioner was already serving this lifetime sanction when she applied for cash assistance. The Department denied Petitioner's application and she is not eligible for FIP benefits because a person found to be noncompliant with self-sufficiency activities without good cause on three occasions will receive a lifetime sanction.

Petitioner argued that it is unfair to disqualify a person from receiving cash assistance for a lifetime.

The Petitioner's grievance centers on dissatisfaction with the Department's current policy. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 denied Petitioner's application for cash assistance.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Cindy Tomczak  
401 Eighth Street  
PO Box 1407  
Benton Harbor, MI  
49023

Berrien County DHHS- via electronic mail

BSC3- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

L. Karadsheh- via electronic mail

**Petitioner**

