



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: January 23, 2019
MAHS Docket No.: 18-012464
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 2, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Natalie McLaurin.

ISSUE

Did the Department of Health and Human Services (Department) properly sanctioned Petitioner's Family Independence Program (FIP) benefits for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program?

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 March 26, 2018, the Department referred Petitioner to the Partnership. Accountability. Training. Hope. (PATH) program with an April 2, 2018, initial orientation date. Exhibit A, p 24.
2. On April 14, 2018, the Department notified Petitioner that she was found to be noncompliant with the Partnership. Accountability. Training. Hope. (PATH) program and that this was her third failure to comply with required programming. Exhibit A, pp 27-28.

3. Department records indicates that Petitioner's Family Independence Program (FIP) benefits were sanctioned for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) on January 1, 2010, and March 1, 2010. Exhibit A, p 40.
4. On [REDACTED] the Department received Petitioner's application for Family Independence Program (FIP) benefits. Exhibit A, pp 5-7.
5. On August 29, 2018, the Department notified Petitioner that her Family Independence Program (FIP) application had been denied. Exhibit A, pp 8-11.
6. On November 15, 2018, the Department received Petitioner's request for a hearing protesting her disqualification from the Family Independence Program (FIP). Exhibit A, pp 3-4.

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.

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.

A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230A (July 1, 2018), p 1.

The Department will not schedule a triage for instances of noncompliance while the FIP application is pending. Department of Health and Human Services Bridges Eligibility Manual (BEM) 233A (July 1, 2018), p 9.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period. BEM 233A, p 10.

On March 26, 2018, the Department referred Petitioner to an orientation for the PATH program scheduled to begin April 2, 2018. Petitioner failed to complete her orientation. On April 14, 2018, the Department determined that Petitioner was noncompliant with the PATH program without good cause, and that she had been previously noncompliant on two other occasions.

On [REDACTED] 2018, the Department received Petitioner's application for FIP benefits and immediately denied this application after determining that she had been permanently disqualified from FIP.

However, Petitioner's failure to attend her orientation by April 14, 2018, should not have resulted in a third noncompliance sanction, but only a denial of FIP benefits. Therefore, Petitioner is potentially eligible for FIP benefits as long as she meets all of the criteria for that program.

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 August 29, 2018, application for Family Independence Program (FIP) based on a lifetime disqualification.

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. Delete the April 14, 2018, noncomplaine sanction from Petitioner's benefits file.
2. Reregister the August 29, 2018, application for Family Independence Program (FIP) benefits and process in accordance with policy.

KS/dh



Kevin Scully
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 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) 763-0155; 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

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

Saginaw County, DHHS

BSC2 via electronic mail

G. Vail via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]