



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 8, 2019
MAHS Docket No.: 19-000386
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, an in-person hearing was held on March 7, 2019, from Pontiac, Michigan. Petitioner represented herself. ██████████ Petitioner's sister, also appeared for the hearing. The Department of Health and Human Services (Department) was represented by ██████████ ██████████ Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits effective February 1, 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. Petitioner was a recipient of FIP benefits.
2. Petitioner had been actively participating in employment or self-sufficiency-related activities until December 1, 2018.
3. On December 6, 2018, Petitioner was notified that she would need to either obtain employment or perform community service to maintain her FIP benefits.
4. Petitioner believed her assigned case worker was attempting to find other options for her and as a result, did not obtain employment and did not complete any community service hours after she was informed of this requirement on December 6, 2018.

5. On January 3, 2019, the Department sent Petitioner a Notice of Noncompliance which notified Petitioner that an appointment had been scheduled for January 11, 2019 to allow Petitioner to establish good cause for her noncompliance.
6. Also, on January 3, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FIP benefits would close effective February 1, 2019.
7. Petitioner appeared for the good cause appointment on January 15, 2019.
8. The Department determined that Petitioner did not establish good cause for her noncompliance.
9. On January 11, 2019, Petitioner filed 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.

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause. BEM 233A (July 2018), p. 1.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (July 2018), p. 1.

A client can be excused from participation in the PATH program if he/she can establish good cause. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments. BEM 233A, p 4.

Additionally, a Work Eligible Individual (WEI) and a non-WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- 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.

In this case, Petitioner had been activity participating in employment or self-sufficiency-related activities until December 1, 2018. On December 6, 2018, Petitioner's assigned case worker, ██████████, met with her to discuss her current activity. The Case Notes Listing notes that ██████████ informed Petitioner that she had exhausted her job search job readiness hours and now has to either obtain employment, enroll in training or perform community service. At the time of the meeting, Petitioner was involved in physical therapy and indicated that she was unable to perform community service. There is also a note in the Case Notes Listing on December 11, 2018 in which ██████████ indicates that she again spoke with Petitioner and explained that besides working, community service was the only other option.

Petitioner testified that after ██████████ informed her that she was required to secure employment or participate in community service, ██████████ also indicated that she would attempt to find another program from her. Ms. Strand testified that she is unaware of any other program that would have allowed Petitioner's benefits to remain active absent work or community service hours. Petitioner testified that she did not take any other steps because she was waiting to hear back from ██████████. Petitioner also confirmed that her physical therapy ended on or about December 18, 2018.

██████████ testified that she joined the good cause meeting after it had already begun. ██████████ indicated that she asked ██████████ at least once whether or not Petitioner was or was not in compliance as it appeared that ██████████ was unclear of Petitioner's status. ██████████ indicated that faced with either a choice of compliance or noncompliance, ██████████ indicated that Petitioner was in noncompliance.

The exchange between ██████████ and ██████████ seems to indicate that ██████████ was attempting to determine what could be done with Petitioner's case but due to the inactivity, she was required to send the Notice of Noncompliance. If Petitioner's assigned case worker was unclear of Petitioner's status, it is reasonable that Petitioner would have also been unclear of her status. It is therefore found that the miscommunication between Petitioner and her assigned worker caused the delay in required activities, especially given Petitioner's prior record of compliance. As such, it is found that Petitioner has established good cause for her noncompliance. Petitioner should therefore be afforded the opportunity to complete community service hours in an effort to become compliant with the requirements of the FIP 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefits effective February 2, 2019.

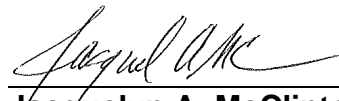
DECISION AND ORDER

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. Reinstate Petitioner's FIP benefits effective February 1, 2019;
2. If Petitioner was eligible for supplements, issue FIP supplements Petitioner was eligible for but did not receive effective February 1, 2019; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

MDHHS-Oakland-IV-Hearings
BSC4 Hearing Decisions
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Petitioner – Via First-Class Mail:

[REDACTED]
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