



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: May 17, 2019
MOAHR Docket No.: 19-003527
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 May 9, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Holly Chiddister, Case Manager, and Tom Ayers, Manager. During the hearing, a 24-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-24.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) cash assistance case, effective May 1, 2019?

Did Petitioner's hearing request raise an issue with respect to her Food Assistance Program (FAP) benefits over which the undersigned Administrative Law Judge (ALJ) has jurisdiction?

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.
2. Petitioner claimed that she was disabled. As a result, the Department issued to Petitioner a December 6, 2018 Medical Needs – PATH, DHS-54 to have Petitioner

fill out and return to the Department. The Department received the completed form on December 21, 2018. The form was signed by a doctor and indicated that Petitioner was unable to work for at least six months. Exhibit A, pp. 2-3.

3. Petitioner was placed into deferral, thereby relieving her of any obligation to participate in the PATH program.
4. On December 29, 2019, the Department issued to Petitioner a Medical Determination Verification Checklist and a Notice to Apply. Both documents informed Petitioner that she was required to submit to the Social Security Administration (SSA) an application for disability benefits by February 19, 2019 and provided her with instructions on how to complete the task. Both documents informed Petitioner that failure to apply and provide proof thereof would result in the closure of her FIP cash assistance case. Exhibit A, pp. 4-6.
5. Petitioner did not submit an application for disability benefits to the SSA by February 19, 2019.
6. On March 11, 2019, the Department issued a Verification of Application or Appeal for SSI/RSDI to the Benton Harbor, Michigan SSA requesting confirmation of whether Petitioner had applied for benefits. On March 26, 2019, the Department issued a Verification of Application or Appeal for SSI/RSDI to the [REDACTED], Michigan SSA requesting confirmation of whether Petitioner had applied for benefits. Both documents were returned to the Department with notations from the SSA confirming that Petitioner had not applied for benefits from the SSA. Exhibit A, pp. 7-10.
7. On March 27, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP cash assistance case was closing, effective May 1, 2019, and that FAP benefits were increasing from \$73 per month to \$164 per month. Exhibit A, pp. 11-15.
8. 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 submitted a hearing request objecting to actions taken with respect to her FIP cash assistance and FAP benefits cases. With respect to FIP, her case was closed, effective May 1, 2019, for failing to comply with the Department's directive to apply for disability benefits from the SSA. As a result of the closure of her FIP case, Petitioner's FAP budget was adjusted to account for the loss of income, resulting in her monthly FAP benefits more than doubling.

FAP BENEFITS

Petitioner's hearing request indicates that she is objecting to what she believed was the closure of her FAP benefits case, as communicated to her in the March 27, 2019 Notice of Case Action. The record, however, shows that the March 27, 2019 Notice of Case Action informed Petitioner that Petitioner's monthly FAP benefits went from \$73 to \$164, a substantial increase.

Clients have the right to contest a Department decision affecting eligibility or benefit levels. BAM 600 (October 2018), p. 1. The Michigan Office of Administrative Hearings and Rules may grant a hearing when a hearing request is filed challenging an action by the Department that results in a denial of an application, reduction in the amount of benefits, suspension or termination of benefits, or delay of any action. BAM 600, p. 5.

The only action taken with respect to Petitioner's FAP case was an increase in benefits from \$73 to \$164. That was not a negative action. The record shows that the hearing request did not raise an issue over which the undersigned ALJ has jurisdiction to address. Accordingly, Petitioner's hearing request with respect to her FAP benefits is hereby dismissed.

FIP CLOSURE, EFFECTIVE MAY 1, 2019

Petitioner's hearing request did, however, raise an hearable issue with respect to her FIP cash assistance case being closed, effective May 1, 2019.

The FIP is a temporary cash assistance program to support a family's movement toward self-sufficiency. BEM 230A (July 2018), p. 1. As a condition of eligibility for FIP benefits, an individual must apply for any state and/or federal benefits for which they may be eligible. BEM 270 (January 2018), p. 1. An additional condition of continued

FIP eligibility, work eligible individuals 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. If an individual indicates that he or she is disabled for more than 90 days, the Department defers that person from participating in work-related activities. BEM 230A, p. 11. All adults in a FIP group who are deferred more than 90 days must be referred to SSA to apply for benefits. BEM 270, p. 3. For verified disabilities over 90 days, the client must apply for benefits through the SSA before the Department can take any further action. BEM 230A, p. 12. Refusal of a group member to pursue potential benefits results in group ineligibility. BEM 270, p. 1.

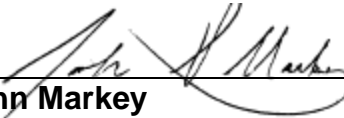
In this case, Petitioner verified to the Department that she had a disability that would last for more than 90 days. Thus, per policy, the Department referred her to the SSA to apply for benefits that she may be eligible for. Petitioner did not follow the Department's instructions and did not reasonably pursue the SSA benefits that she may have been entitled to. As a result of Petitioner's refusal to pursue those benefits, the Department, per policy, closed Petitioner's FIP case. As stated above, eligibility for FIP is conditioned upon Petitioner's pursuit of all state and/or federal benefits she may qualify for. Because Petitioner failed to meet her obligation to pursue those benefits, the Department properly closed her FIP cash assistance case, effective May 1, 2019.

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 closed Petitioner's FIP cash assistance case, effective May 1, 2019.

DECISION AND ORDER

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

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

Via Email:

MDHHS-St. Joseph-Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
BSC3- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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