



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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

Date Mailed: June 11, 2019
MOAHR Docket No.: 19-004539
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 10, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Jeffrey Robinson, Family Independence Manager, and Michelle Christian, Family Independence Specialist.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application?

Did the Department properly deny Petitioner's Medical Assistance (MA) Program application?

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 13, 2019, Petitioner was terminated from her employment.
2. On March 18, 2019, the Department received Petitioner's application for FIP and MA benefits.
3. On April 16, 2019, Petitioner started employment with [REDACTED] (Employer) for an estimated 20 to 25 hours per week earning \$ [REDACTED] per hour.

4. On April 23, 2019, Petitioner spoke with her caseworker over the phone regarding her application and employment situation.
5. On the same day, based upon the information provided by Petitioner, the Department issued a Notice of Case Action to Petitioner informing her that her application for FIP was denied effective April 16, 2019, because “benefits delayed due to a group member’s job refusal, job quit or reduced hours of employment without good cause within 30 days of application,” because her group’s countable earnings exceeded the application income limit, and because “individual is an adult.”
6. On April 26, 2019, Petitioner received her first paycheck from Employer.
7. On the same day, the Department received Petitioner’s hearing request disputing the Department’s denial of her FIP and MA applications.

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).

Family Independence Program (FIP)

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, the Department denied Petitioner’s application for FIP benefits because of an alleged job refusal, job quit, or voluntary reduction in hours without good cause, because her countable earnings exceeded the application limit, and because “individual is an adult.”

A work eligible individual (WEI) and a non-WEIs who fail without good cause to participate in employment or self-sufficiency-related activities must be penalized. BEM 233A (July 2018), p. 1. Penalties include delay in eligibility at application, ineligibility such as a denial of application or termination of FIP with no minimum penalty period, or case closure for a minimum of three months for the first occurrence of noncompliance, six months for the second, and lifetime closure for a third occurrence. *Id.*

Noncompliance with employment and/or self-sufficient related activities includes failing or refusing to:

- Appear and participate in PATH or other employment service provider
- Complete a Family Automated Screening Tool as assigned in the first step of the Family Self-Sufficiency Plan (FSSP) process
- Develop an FSSP
- Comply with activities assigned on the FSSP
- Provide legitimate documentation of work participation
- Appear for scheduled appointments or meetings related to assigned activities
- Participate in employment and/or self-sufficiency-related activities
- Participate in a required activity
- Accept a job referral
- Complete a job application
- Appear for a job interview

BEM 233A, pp. 2-3. It also includes stating orally or in writing a definite intent not to comply with program requirements, as well as threatening, physically abusing, or otherwise behaving disruptively, and refusing employment or employment support services. BEM 233A, p. 3. Refusal of suitable employment is defined as voluntarily reducing hours or otherwise reducing earnings, quitting a job, or being fired for misconduct or absenteeism (not for incompetence). *Id.* When a client refuses employment without good cause within 30 days of the application date or while an application is pending, FIP benefits may not be approved earlier than the pay period following the pay period containing the 30th day after the refusal of employment.

Since Petitioner was terminated from her employment due to absenteeism, her termination meets the definition of a refusal of suitable employment pursuant to policy. However, the Department presented no evidence that a determination of good cause for her absenteeism was made prior to the denial of her FIP benefits. Good cause for noncompliance, and thereby absenteeism, may be established when a client has 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. BEM 233A (July 2018), p. 4. Examples include employment of 40 hours per week, illness or injury, no childcare, no transportation, and other items where the factors are beyond the client's control. Since the Department failed to make a determination of good cause for Petitioner's absenteeism leading to her termination, the Department did not properly deny her FIP application or delay the approval of her FIP application.

However, Petitioner's application was also denied effective the same day because she had excess income for the program at application. Financial need must exist in order to receive FIP benefits. BEM 518 (October 2015), p. 1. It exists when the certified group passes the Qualifying Deficit Test, Issuance Deficit Test, and Child Support Income Test. *Id.*

The Qualifying Deficit Test is completed by subtracting budgetable income from the certified group's payment standard for the application month. BEM 518, p. 3. This reviews the first two application months in which the group could be eligible for an assistance payment. *Id.*

The Issuance Deficit Test subtracts budgetable income from the certified group's payments standard for the benefit month. *Id.* The benefit month is the month an assistance payment covers. *Id.* The group is ineligible for the benefit month if no deficit exists or the group has a deficit less than \$10. *Id.*

In the Child Support Income Test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the certified group's payment standard. *Id.* This test is only required when the group has certified support of more than \$50. BEM 518, p. 4.

The payment standard is the maximum benefit amount that can be received by the group. BEM 515 (October 2018), p. 1. The payment standard is determined by group size. BEM 515, p. 1; RFT 210 (April 2017), p. 1. Petitioner has a group size of two, which would give her a standard payment of \$403.00 as Petitioner is an eligible grantee (a member of the FIP group). *Id.*

Financial need exists if there is a least a \$10 deficit after income is budgeted in the issuance deficit test and the group passes the child support income test. BEM 518, p. 2. If the group fails either test, the group is ineligible for assistance. *Id.* The only exception to the \$10 deficit applies at application when the certified group must have a deficit of at least \$1 in the qualifying deficit test to be eligible for FIP. BEM 518, p. 3. If the group fails this test, the group is denied benefits. *Id.*

At the time of application, Petitioner was unemployed but subsequently began employment before the Department processed her FIP application. At the time of application processing, she did not have verification of her wages yet. Since Petitioner was starting her new income source, the Department properly determined Petitioner's eligibility based upon her statements rather than waiting for proofs. BEM 501 (October 2018), p. 9.

In order to budget income from employment, the Department considers actual income and prospected income (income that has not yet been received but is expected). BEM 505 (October 2017), p. 1. Each source of income is converted to a standard monthly amount. *Id.* To standardize weekly income into monthly income, the Department

multiplies the average income received on a weekly basis by 4.3. BEM 505, pp. 8-9. This is the income used for budgeting purposes.

Since Petitioner had income of \$ [REDACTED] per hour for an estimated 20 to 25 hours per week, her minimum estimated weekly income would be \$ [REDACTED]. Therefore, her standardized monthly income would be \$ [REDACTED].

Next, the Department is required to apply appropriate income deductions. The Department is required to deduct \$200.00 from each person's countable earnings, and then an additional 50% of each person's remaining earnings. BEM 518, p. 5. The total disregard cannot exceed countable earnings. *Id.* Therefore, Petitioner's net earned income is \$ [REDACTED] (dropping the cents). Finally, the applicable payment standard of \$403.00 for a group size of two is deducted from Petitioner's net earned income which results in an excess income of \$71.00 (dropping the cents). *Id.*; RFT 210, p. 1. Since Petitioner has no deficit, but instead excess income, the Department properly denied Petitioner's FIP application.

Since the Department properly denied Petitioner's FIP application based upon excess income, no further evaluation is necessary to determine if denial based upon "individual is an adult" is necessary.

During the hearing, Petitioner questioned the Department's requirement that she participate in Partnership. Accountability. Training. Hope. (PATH) a second or third time since she has completed the program or portions of the program previously. Policy, federal, and state law require each WEI in a FIP group to participate in PATH or other employment related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (July 2018), pp. 1, 4. Therefore, Petitioner must participate in PATH if she seeks aid from the FIP.

Medical Assistance (MA) Program

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

At the hearing, Petitioner testified that her concerns related to the MA program had been resolved and that she did not wish to proceed with the hearing as it related to MA benefits. The Department had no objection to the withdraw of her hearing request. Having found good cause, Petitioner's request for hearing as it relates to MA benefits is DISMISSED.

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 FIP benefits based upon excess income.

DECISION AND ORDER

Petitioner's request for hearing as it relates to the **MA** program is **DISMISSED**.

The Department's decision is **AFFIRMED**.



AMTM/jaf

Amanda M. T. Marler
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

DHHS

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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BSC4
D Smith
EQAD
B Sanborn
B Cabanaw
G Vail
D Sweeney