



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: June 18, 2019  
MOAHR Docket No.: 19-004996  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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, a telephone hearing was held on June 13, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager.

**ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits effective June 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. On [REDACTED], 2018, Petitioner applied for FIP benefits.
2. Shortly after submitting her application, Petitioner was referred to the Partnership. Accountability. Training. Hope. (PATH) program.
3. Petitioner failed to attend PATH as required.
4. The Department scheduled a triage meeting to allow Petitioner an opportunity to establish good cause for failing to attend PATH.
5. At the triage, Petitioner asserted that she was unable to attend PATH due to a disability.

6. On March 26, 2019, the Department sent Petitioner a Medical Determination Verification Checklist which instructed Petitioner to submit a Medical Needs form along with other required documentation to be reviewed by the Disability Determination Service (DDS, formerly called Medical Review Team or MRT).
7. The documentation was due on or before April 5, 2019.
8. The Department's primary communication with Petitioner was through email as this method had been established as the best means to reach the Petitioner.
9. On April 5, 2019, Petitioner met with the Department and informed the Department that due to a recent move, for which she failed to notify the Department, she did not receive the correspondence mailed on March 26, 2019.
10. The Department provided Petitioner with the required forms and extended the due date until April 15, 2019.
11. On April 18, 2019, Petitioner submitted documentation to the Department.
12. The Department forward the submitted information to DDS.
13. DDS informed the Department that Petitioner failed to fully complete the Medical Social Questionnaire and also failed to submit verification that she applied for benefits through the Social Security Administration.
14. On April 19, 2019, the Department offered Petitioner another extension until April 29, 2019 to submit the incomplete information.
15. Petitioner did not read the Department's April 19, 2019 email until Friday, April 26, 2019.
16. Petitioner uploaded what she believed to be the remaining required information on April 26, 2019 at 4:07 p.m.
17. On Monday, April 29, 2019 at 8:31 a.m., the Department responded to Petitioner's email indicating that it had only received one page of one document and inquired if any additional documentation was submitted.
18. On April 29, 2019 at 10:29 a.m., Petitioner responded that she only submitted the one page and inquired if the Department needed anything further.
19. On April 29, 2019 at 11:43 a.m., the Department responded and informed Petitioner that photographs of the proofs were not acceptable and that the actual documentation was need. The Department further informed Petitioner that the documentation was due that day as that was the last day of the final extension.
20. Petitioner was unable to submit the documentation on April 29, 2019 but did submit additional documentation which was received by the Department on May 1, 2019.

21. On May 1, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FIP benefits would close effective June 1, 2019 for failure to verify requested information.
22. On May 6, 2019, Petitioner submitted 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.

Additionally, Department policy requires that clients complete the 21-day PATH AEP part of orientation which is an eligibility requirement for approval of the FIP application. PATH participants must complete all of the following in order for their FIP application to be approved:

- Begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice.
- Complete PATH AEP requirements.
- Continue to participate in PATH after completion of the 21-day AEP. BEM 229 (October 2015), p. 1.

In this case, the Department testified that Petitioner failed to attend PATH as required. Petitioner subsequently attended a meeting with the Department at which time, she asserted that she was unable to attend PATH due to a disability. As such, Petitioner was seeking a deferral from attending PATH due to a disability. To be deferred from PATH due to a disability, the client must establish the disability. To establish a disability, the client must complete the following steps:

#### **Step One: Establishment of Disability**

Once a client claims a disability he/she must provide MDHHS with verification of the disability when requested. The verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant; see Verification Sources in this item.

In Bridges, the Deferral/Participation Reason is *Establishing Incapacity* while awaiting the verification that indicates the disability will last longer than 90 days. At application, once the client has verified the disability will last longer than 90 days, the application may be approved, assuming all other eligibility requirements have been met.

If the returned verification indicates that the disability will last 90 days or less; see Short-Term Incapacity in this item.

### **Step Two: Defining the Disability**

For verified disabilities over 90 days, see BAM 815, Medical Determination and Disability Determination Service, for the policy requirements in obtaining a medical certification from DDS. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation.

For verified disabilities over 90 days, the client must apply for benefits through the Social Security Administration (SSA) before step three. See BAM 815, Medical Determination and Disability Determination Service and BEM 270, Pursuit of Benefits.

In Bridges, the Deferral/Participation Reason is *Establishing Incapacity* while awaiting the DDS decision.

### **Step Three: Referral to DDS**

Send the completed required forms along with any medical evidence provided, to the DDS to begin the medical development process. BAM 230A (July 2018), p. 12.

In this case, the Department provided Petitioner with two extensions in an effort to allow her additional time to submit the required documentation. The evidence provided demonstrated that Petitioner diligently attempted to submit the requested verification to the best of her understanding of what was required. In accordance with policy, the Department is required to send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130 (April 2017), p. 7.

Petitioner consistently communicated with the Department by submitting documentation and inquiring as to whether any additional documentation is needed. While it is clear that the Department provided additional extensions, it is equally clear that Petitioner was continuing to attempt to comply with the Department's requests. As such, it is found that Petitioner made a reasonable effort to provide verification and as such, the Department improperly closed her FIP benefits effective June 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 did not act in accordance with Department policy when it closed her FIP benefits effective June 1, 2019 for failure to verify requested information.

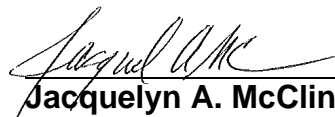
**DECISION AND ORDER**

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 June 1, 2019;
2. If Petitioner was eligible for supplements, issue FIP supplements Petitioner was eligible for but did not receive effective June 1, 2019;
3. Process Petitioner's request for deferment from PATH based upon an asserted disability in accordance with policy; and
4. Notify Petitioner in writing of its decision.

JAM/tlf



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**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 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

**Via Email:**

MDHHS-Washtenaw-Hearings  
BSC4 Hearing Decisions  
[REDACTED]  
[REDACTED]  
MOAHR

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED]  
[REDACTED]