



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: July 18, 2019
MOAHR Docket No.: 19-006325
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 July 15, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Worker, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly sanction Petitioner and deny her Family Independence Program (FIP) 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 April 26, 2019, Petitioner submitted an application for FIP benefits.
2. On May 23, 2019, an application interview was held to determine Petitioner's eligibility for FIP benefits and Petitioner disclosed that she had been fired from her former employment within the 30 days prior to her application.
3. On May 30, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FIP application had been denied effective May 16, 2019 because a group member had refused a job, quit a job, or reduced their hours of employment without good cause within 30 days of the application.

4. On June 7, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of her FIP application.

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.

In this case, Petitioner's disputes the denial of her FIP application based upon her termination from employment within 30 days of her application.

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.* Misconduct is defined as any action by an employee or other adult group member that is harmful to the interest of the employer and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. BEM 233A, p. 3. 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. BEM 233A, p. 7.

In this case, the Department delayed the approval of Petitioner's FIP application because it deemed Petitioner to have "refused suitable employment" as a result of her termination from employment. However, the Department made no determination or evaluation for the reasons behind her termination. Policy requires that for a termination to be considered a refusal of suitable employment, the termination must be for misconduct or absenteeism. For the acts leading to termination to be considered misconduct, Petitioner must have done something intentionally against or harmful to the employer's interests or she must be grossly negligent. The Department never evaluated the reasons behind Petitioner's termination. According to the Department, whenever a termination of employment is entered in Bridges within the 30 days prior to application, Bridges will automatically sanction the applicant. These actions of Bridges and the Department are not in accordance with Department policy. Since the Department made no evaluation of the reasons behind Petitioner's termination, the Department improperly applied a sanction to Petitioner's application. The Department's denial or delay of Petitioner's FIP application are not in accordance with Department policy.

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 sanctioned and denied Petitioner's application for FIP.

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. Reprocess Petitioner's application for FIP benefits using the original application date;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.



AM/tm

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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
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[REDACTED]

CC:

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