



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 31, 2019  
MOAHR Docket No.: 19-006697  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 25, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

Did the Department properly determine Petitioner's State Emergency Relief (SER) benefit eligibility?

**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 FIP recipient.
2. On [REDACTED] 2018, Petitioner gave birth to her child and received a temporary deferral from participation in employment-related activities.
3. On March 29, 2019, the Department sent Petitioner a PATH Appointment Notice, informing her that her PATH orientation was scheduled on April 9, 2019 (Exhibit A, p. 6).

4. On April 19, 2019, the Department sent Petitioner a Notice of Noncompliance informing her that she was noncompliant and that a triage was scheduled on April 25, 2019 (Exhibit A, p. 7).
5. On April 19, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective May 1, 2019, ongoing, and that she was subject to a 6-month sanction (Exhibit A, pp. 4-5).
6. On April 25, 2019, Petitioner failed to attend the triage and good cause was not found.
7. On [REDACTED] 2019, Petitioner submitted an application for SER benefits for assistance with her water bill.
8. On June 19, 2019, the Department sent Petitioner a SER Decision Notice informing her that her SER application was approved (Exhibit A, p. 16).
9. On [REDACTED] 2019, Petitioner submitted a request for hearing related to her FIP, SER and Medical Assistance (MA) benefit cases 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).

#### **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, Petitioner was an ongoing FIP recipient and was previously deferred from participating in employment-related activities as a result of giving birth to her child. When Petitioner's deferral ended, she was rereferred to PATH and was sent a PATH Appointment Notice informing her that she was scheduled to attend orientation on April 9, 2019.

All Work Eligibility Individuals (WEI), unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. BEM 230A (October 2015), p. 4. Most WEIs are referred to the Partnership.

Accountability Training. Hope. (PATH) program provided by the one-stop service center serving the client's area when one of the following exists: (i) a WEI applies for FIP; (ii) a WEI applies to be a member added to a FIP group; or (iii) a WEI is no longer temporarily deferred from employment services. BEM 230A, p. 4. A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Noncompliance includes failing or refusing to appear and participate in PATH or other employment service provider. BEM 233A, p. 2. Penalties include 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.

The Department testified that Petitioner did not attend her PATH orientation. As a result, the Department sent Petitioner a Notice of Case Action on April 19, 2019, informing her that her FIP benefit case was closing effective May 1, 2019, ongoing, and that she was subject to a 6-month sanction. The Department also sent Petitioner a Notice of Noncompliance on April 19, 2019, informing her that she was noncompliant and that she had a triage scheduled on April 25, 2019.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8.

Petitioner did not attend the April 25, 2019 triage. As such, the Department stated that Petitioner did not establish good cause for her failure to attend PATH orientation, as she was not present at the triage and did not provide an explanation for her absence.

At the hearing, Petitioner testified that she did not receive the PATH appointment notice. Petitioner also stated that she did not receive the Notice of Noncompliance or the Notice of Case Action. Petitioner stated that she was not aware she had to attend PATH or that there was a triage scheduled.

Petitioner did not timely attend her PATH orientation as required. Petitioner also did not attend the triage meeting to provide an explanation for her failure to attend PATH, and therefore, could not have established good cause. Thus, the Department properly followed policy when closing Petitioner's FIP benefit case and subjected her to a 6-month penalty.

## **MA**

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.

The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's and Petitioner's children's MA program benefits. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing with respect to her MA program benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing related to Petitioner's MA benefits is **DISMISSED**.

### **SER**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner submitted an SER application on [REDACTED], 2019. Petitioner requested assistance with her water bill in the amount of \$1,295.69. The Department sent Petitioner an SER Decision Notice on June 19, 2019, informing her that her SER application was approved. Petitioner was required to pay \$1,120 and the Department agreed to pay \$175. Petitioner disputed the amount of her contribution.

SER helps to restore or prevent shut off of certain utility services when service is necessary to prevent serious harm to the SER group members. ERM 302 (October 2018), p. 1. Water is a covered utility service. ERM 302, p. 1. For water, sewer and cooking gas, the Department will only authorize a maximum of \$175 per year. ERM 302, p. 4.

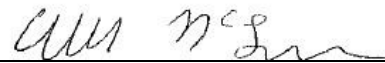
The Department approved Petitioner's SER application. Petitioner was provided the maximum amount allowed by policy for assistance with a water utility. Therefore, the Department acted in accordance with policy when it determined Petitioner's SER eligibility.

**DECISION AND ORDER**

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 benefit case and subject her to a 6-month sanction. The Department also acted in accordance with policy when it determined Petitioner's SER eligibility. Accordingly, the Department's decisions are **AFFIRMED**.

Petitioner's request for hearing related to her MA benefit case is **DISMISSED**.

EM/cg



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**Ellen McLemore**

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-Wayne-17-Hearings  
G. Vail  
D. Sweeney  
M. Holden  
D. Sweeney  
D. Smith  
EQAD  
BSC4- Hearing Decisions

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

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