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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, 2020
MOAHR Docket No.: 20-004072
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 23, 2020, from Trenton, Michigan. Petitioner participated and was unrepresented. [REDACTED], community engagement manager with Fair Food Network, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Pruitt, specialist.

ISSUES

The first issue is whether there is administrative hearing jurisdiction for a remedy of a change in MDHHS specialists.

The second issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) 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. As of March 2020, Petitioner was an ongoing recipient of FIP benefits.
2. As of March 2020, Petitioner was deferred from employment-related activities due to a claim of long-term disability.
3. On [REDACTED] 2020, MDHHS mailed Petitioner a checklist requesting various items for the purpose of verifying Petitioner's claim of long-term disability; items requested included a Medical-Social Questionnaire and proof of an application for Social Security Administration (SSA) benefits.

4. On June 10, 2020, MDHHS terminated Petitioner's FIP eligibility beginning July 2020 due to Petitioner's failure to return a Medical-Social Questionnaire and proof of an application for SSA benefits.
5. On [REDACTED] 2020, Petitioner requested a hearing to dispute the termination of FIP benefits. Petitioner additionally sought to compel MDHHS to change her specialist.

CONCLUSIONS OF LAW

The Family Independence Program 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. MDHHS 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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to compel MDHHS to change her assigned MDHHS specialist. Petitioner and her specialist each testified that they knew each other outside of MDHHS. Each also requested from an MDHHS supervisor that Petitioner be assigned a new specialist. For each, the purpose of the request was to avoid awkwardness or conflict in the specialist-client relationship and to avoid any perceived privacy breach in the handling of Petitioner's medical information. MDHHS supervision denied the request to change Petitioner's specialist for unspecified reasons and did not notify Petitioner of the decision in writing. Petitioner took umbrage with the denial, as well as the lack of written notice of the denial.

A hearing shall be granted to persons in the following circumstances: a claim for assistance is denied or is not acted upon with reasonable promptness, benefits are reduced or suspended, a person is excluded from a service program, and/or a choice of service is denied. Mich Admin Code Rule 792.11002(1). Comparably, MDHHS policy limits hearing jurisdiction to the following:

- Denial of an application or supplemental payment.
- Reduction in benefits or services.
- Suspension or termination of benefits or services.
- Restrictions under which benefits or services are provided.
- Delays in action beyond the standards of promptness.
- A denial of expedited service or the current level of benefits (FAP and CDC only)

BAM 600 (January 2020) p. 5.

A change in assigned specialist is not among the circumstances for which a hearing may be granted. Though Petitioner's request to change specialists was sensible, there is no administrative hearing jurisdiction to compel MDHHS to change a specialist. In short, assignment of specialists is completely within MDHHS's discretion. Further, there is no entitlement to written notice of a denied request to change specialists. Concerning

Petitioner's dispute over her assigned specialist, Petitioner's hearing request will be dismissed.

Petitioner also requested a hearing to dispute a termination of FIP benefits. Exhibit A, pp. 4-5. A Notice of Case Action dated June 10, 2020, stated that Petitioner's benefits ended due to a failure to return verifications. Exhibit A, pp. 6-10. MDHHS clarified that Petitioner specifically failed to return verifications related to continued deferral from employment-related activities.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2019) p. 1. PATH is administered by the Talent Economic Development, State of Michigan through the Michigan one-stop service centers. *Id.* PATH serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.*

Anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred. BEM 230A (October 2019) p. 11. The client must provide MDHHS with verification of the disability when requested. *Id.*, p. 12. See BAM 815 for the process in requesting proof of disability. *Id.*

For claims of long-term disabilities, the Medical-Social Questionnaire (DHS-49-F) is mandatory. BAM 810 (April 2018) p. 4. Specialists are to send a DHS-3503-MRT, Medical Determination Verification Checklist, requesting the DHS-49-F and verification of SSA application/appeal. *Id.* If the client does not provide the requested verifications, the FIP case should be placed into closure for failure to provide needed documentation. BEM 230A (October 2019) p. 12.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* For FIP, MDHHS is to allow the client 10 calendar days to provide the verification that is requested. *Id.*, p. 8. An extension may be granted for Medicaid verifications. *Id.* MDHHS may send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed. *Id.*

In the present case, MDHHS mailed Petitioner a Medical Determination Verification Checklist on [REDACTED] 2020. A DHS-49F and proof of SSA application were among the requested items. Exhibit A, pp. 11-20. Petitioner's due date to return the items was March 13, 2020. When MDHHS did not receive a DHS-49-F or proof of SSA application by June 10, 2020, MDHHS initiated closure of Petitioner's FIP case.

Petitioner testified that she advised MDHHS on March 3, 2020, that she has a brain injury which inhibits her ability to complete and return paperwork. Petitioner also testified she was threatened with eviction during this time which further distracted her from timely returning documents. Additionally, Petitioner testified that she called MDHHS on March 9, 2020, requesting a change in specialist due to concern of keeping her medical information private. Petitioner further testified that, through an attorney, she applied for SSA benefits on [REDACTED], 2020, and submitted verification of her application thereafter.

During the hearing, Petitioner emphasized that her forms stated that MDHHS is to assist her with completion when requested. Indeed, MDHHS is required to assist clients with completing Medical-Social Questionnaires if clients are unable to do so themselves. BAM 810 p. 4. Assisting persons with physical and/or cerebral disabilities so severe that completion of a form is impractical would be proper. Petitioner did not claim that she was unable to recall or write information to complete a Medical-Social Questionnaire. Petitioner could not state what assistance MDHHS should have offered.

Also notable is that MDHHS waited over three months to terminate Petitioner's eligibility after requesting verification. When factoring that Petitioner could have submitted documentation through the end of June 2020 and avoided case closure, Petitioner's time to return verification was nearly four months.¹ Given Petitioner's circumstances, an extension granting Petitioner a full 20 days to return documents would be warranted. There is no basis in policy to allow Petitioner over three full months to return properly requested verifications.

Given the evidence, MDHHS properly terminated Petitioner's FIP case due to a failure to return documents related to medical deferral. Petitioner's recourse is to reapply for benefits.

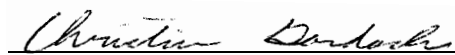
¹ For most case closures, MDHHS issues timely notice of the closure. BAM (April 2019) pp. 4-5. Timely notice requires pending closure for a negative action period of approximately 11 days to allow clients time to react to the action. *Id.*, p. 5.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that there is no administrative hearing jurisdiction for a remedy of a change in MDHHS specialists. Concerning a change in Petitioner's MDHHS specialist, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FIP eligibility beginning July 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tlf



Christian Gardocki
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-15-Hearings
BSC4 Hearing Decisions
B. Cabanaw
MOAHR

Petitioner – Via First-Class Mail:

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