



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: December 4, 2020
MOAHR Docket No.: 20-006353
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 hearing was held on November 25, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Nichole Phillips, manager. Malak Fawaz, specialist for MDHHS, participated as an Arabic-English translator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's eligibility for Family Independence Program (FIP) benefits.

The second issue is whether there is administrative jurisdiction for a hearing request to change a client's MDHHS specialist.

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 April 2020, Petitioner was an ongoing recipient of FIP benefits as part of a benefit group which included his spouse and several children.
2. As of April 2020, Petitioner was deferred from employment-related participation due to a medical deferral.

3. On April 29, 2020, MDHHS terminated Petitioner's medical deferral based on Disability Determination Services (DDS) determination that Petitioner was not disabled.
4. On July 1, 2020, MDHHS mailed Petitioner an appointment to attend PATH.
5. On an unspecified date, Petitioner reported to MDHHS a claim for medical deferral from PATH.
6. On July 16, 2020, MDHHS mailed Petitioner a Medical Determination Checklist requesting, among other items, a Medical-Social Questionnaire (DHS-49-F), Authorization to Release Medical Information (DHS-1555), and proof of pursuit of Social Security Administration benefits.
7. On July 29, 2020, MDHHS received from Petitioner an unsigned DHS-1555, a DHS-49-F signed by Petitioner's child, and no proof of pursuit of SSA benefits.
8. On August 4, 2020, MDHHS terminated Petitioner's FIP eligibility beginning September 2020 due to a failure to return verifications concerning medical deferral.
9. On [REDACTED], 2020, Petitioner requested a hearing to dispute the termination of FIP benefits and to request a new MDHHS specialist.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .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 dispute a termination of FIP benefits. A Notice of Case Action dated August 4, 2020, stated that Petitioner's FIP eligibility would end September 2020 due to a failure to return verifications.^{1 2} Exhibit A, pp. 54-59. MDHHS testimony specified that Petitioner failed to return required documents needed to reestablish Petitioner's deferral from PATH after Petitioner's previous medical deferral was denied.

¹ The notice also stated that a group member did not meet program requirements and that the group had no eligible children. MDHHS acknowledged that the only valid basis for closure was a failure to verify.

² Petitioner testified that he did not receive the Notice of Case Action. A check of the notice verified it properly listed Petitioner's mailing address. Also, MDHHS credibly testified that the document was "central printed". "Central printed" documents are printed and prepared for mail by computer automation. Thus, human error by MDHHS in mailing notice is implausible.

As part of the medical review process, MDHHS is to complete a DHS-3503-MRT, Medical Determination Verification Checklist (MDVCL). BAM 815 (April 2018) p. 8. Requested verifications must include the following: DHS-49-F, DHS-1555, and verification of SSA application/appeal. *Id.*, p. 5. If requested mandatory forms are not returned, DDS cannot make a determination on the severity of the disability and MDHHS is to deny the application or place an approved program into negative action for failure to provide required verifications. *Id.*, p. 2.

MDHHS presented a MDVCL dated July 16, 2020, giving Petitioner until July 26, 2020 to return a DHS-49-F, proof of SSA application/appeal, and a DHS-1555. Exhibit A, pp. 39-40. It was not disputed that MDHHS extended Petitioner's due date until July 31, 2020. MDHHS contended that Petitioner's FIP eligibility was properly terminated due to Petitioner's failure to properly complete and/or return all three documents.

Concerning a DHS-49-F, MDHHS acknowledged that Petitioner timely returned a completed form, but it was rejected because it was completed by Petitioner's teen child. Exhibit A, pp. 47-51. MDHHS provided no basis in policy or law to justify rejecting the document. Some documents create a legal liability for providing false information (e.g. an assistance application). In such cases, rejecting a document due to its completion by a minor would be more appropriate. Notably, a DHS-49-F is not a document indicating any legal consequences for listing false information. Rejecting the document because it was completed by a minor is improper.

MDHHS credibly alleged that Petitioner failed to timely return proof of pursuit of Social Security. Despite Petitioner's failure, MDHHS has other methods of verifying that a client has a pending SSA case. An SOLQ (State Online Query) is an acceptable verification. *Id.*, p. 8. An SOLQ is a MDHHS report listing point in time information for a client's SSA application and/or case status. BAM 801 (October 2018) p. 1. MDHHS testimony acknowledged that it possessed an SOLQ verifying that Petitioner appealed a denial of SSA benefits on July 8, 2020. Thus, further verification from Petitioner was superfluous.

Lastly, MDHHS justified FIP termination based on Petitioner's failure to return a DHS-1555. The client or authorized representative must sign the DHS-1555 to request existing medical records. BAM 815 (April 2018) p. 4. The form is mandatory. *Id.* MDHHS testified, without rebuttal, that a DHS-1555 was received, but unsigned. Exhibit A, pp. 42-43. Petitioner's failure to return a signed DHS-1555 is a proper basis to terminate Petitioner's FIP eligibility.

Petitioner testified that he faxed requested documents to MDHHS on October 5, 2020. Petitioner's testimony, even if accepted, would not alter a FIP case closure from the previous month.

Petitioner also testified that he submitted a DHS-1555 and other documents to MDHHS on multiple past occasions. Petitioner's testimony implies an argument that MDHHS did not need an updated DHS-1555. Such an argument is rejected because MDHHS policy

directs its specialists to requests new forms when a new medical determination is needed. In the present case, a new medical determination was necessary after DDS denied Petitioner's previous claim of disability. Exhibit A, pp. 7-34.

Given the evidence, Petitioner failed to submit to MDHHS a properly completed DHS-1555. Thus, the termination of Petitioner's FIP eligibility was proper.

Petitioner also requested a hearing to request a change in MDHHS specialists. Consideration of administrative hearing jurisdiction is necessary for such requests.

A hearing can be granted for actions affecting benefits or services. Administrative hearing jurisdiction is limited 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 (October 2018), p. 5.

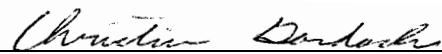
A desire for a new specialist is not among the reasons for which a hearing may be granted. In other words, a new specialist is not a potential administrative remedy available to clients. As stated during the hearing, any reassignment of specialist is within the discretion of MDHHS. Thus, Petitioner's hearing request must be dismissed concerning his request for a new specialist.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that there is no administrative jurisdiction to order MDHHS to change Petitioner's specialist. Concerning Petitioner's request for a new 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 September 2020 due to a failure to return a signed DHS-1555. Concerning the termination of Petitioner's FIP eligibility, the actions taken by MDHHS are **AFFIRMED**.

CG/tm



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-17-Hearings
D. Sweeney
G. Vail
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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