



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: August 20, 2021
MOAHR Docket No.: 21-003346
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 August 11, 2021, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Cynthia Allard, Eligibility Specialist and Ryan Clemens, Family Independence Manager.

ISSUE

Did the Department properly close the Petitioner's Family Independence Program (FIP) case for a 3rd sanction for a lifetime and Food Assistance Program (FAP) for a 2nd sanction for 6 months because she failed to participate in the PATH program?

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 ██████████ ██████ 2021, the Petitioner applied for FIP benefits where she was granted a 3-month deferral from PATH due to the submitted DHHS 54-E that was signed by her treating physician on December 17, 2020. Department Exhibit 1, pgs. 3-5.
2. On January 27, 2021, the Department Caseworker sent the Petitioner the medical forms necessary for an extension on the 3-month deferral that were due on February 8, 2021. Department Exhibit 1, pgs. 6-25.
3. The Petitioner was a recipient of FIP, which required her to participate in the PATH program.

4. On February 22, 2021, the Petitioner was given a PATH Appointment Notice for an appointment on Monday, March 1, 2021, at 9 a.m. when the medical deferral forms were not received by the due date. Department Exhibit 1, pgs. 26-27.
5. On March 23, 2021, the Department sent the Petitioner a Notice of Noncompliance, DHS-2444, because she missed a PATH appointment for a triage appointment on March 29, 2021, to determine good cause. This was her 3rd non-compliance and her FIP case would be closed for a lifetime and 2nd time sanction for FAP resulting in a 6-month disqualification for the Petitioner. Department Exhibit 1, pgs. 28-30.
6. On March 23, 2021, the Department sent the Petitioner a Notice of Case Action, DHS 1605, of her FIP case closure for a 3rd time lifetime effective May 1, 2021, due to non-participation in the PATH program and 2nd time sanction for FAP resulting in a 6-month disqualification for the Petitioner. Department Exhibit 1, pgs. 31-36.
7. On March 29, 2021, the Petitioner attended her PATH triage meeting. The Petitioner stated that she had phone issues resulting in a no show. The Department found that the Petitioner did not have good cause for missing her appointment for the contested time period. This was her 3rd sanction resulting in a case closure for a lifetime.
8. On July 1, 2021, the Petitioner filed a hearing request, protesting 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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In the instant case, the Petitioner applied for FIP benefits on [REDACTED] 2021, where she was granted a 3-month deferral from PATH due to the submitted DHHS 54-E that was signed by her treating physician on December 17, 2020. Department Exhibit 1, pgs. 3-5. On January 27, 2021, the Department Caseworker sent the Petitioner the medical forms necessary for an extension on the 3-month deferral that were due on February 8, 2021. Department Exhibit 1, pgs. 6-25.

The Petitioner was a recipient of FIP, which required her to participate in the PATH program. On February 22, 2021, the Petitioner was given a PATH Appointment Notice for an appointment on Monday, March 1, 2021, at 9 a.m. when the medical deferral forms were not received by the due date. Department Exhibit 1, pgs. 26-27. On March 23, 2021, the Department sent the Petitioner a Notice of Noncompliance, DHS-2444, because she missed a PATH appointment for a triage appointment on March 29, 2021, to determine good cause. This was her 3rd non-compliance and her FIP case would be closed for a lifetime and 2nd time sanction for FAP resulting in a 6-month disqualification for the Petitioner. Department Exhibit 1, pgs. 28-30.

On March 23, 2021, the Department sent the Petitioner a Notice of Case Action, DHS 1605, of her FIP case closure for a 3rd time lifetime effective May 1, 2021, due to non-participation in the PATH program and 2nd time sanction for FAP resulting in a 6-month disqualification for the Petitioner. Department Exhibit 1, pgs. 31-36. On March 29, 2021, the Petitioner attended her PATH triage meeting. The Petitioner stated that she had phone issues resulting in a no show. The Department found that the Petitioner did not have good cause for missing her appointment for the contested time period. This was her 3rd sanction resulting in a case closure for a lifetime. On July 1, 2021, the Petitioner filed a hearing request, protesting the Department's actions. BEM 233A and 233B.

This Administrative Law Judge finds that the Petitioner was not given a 3-month deferral from PATH if she applied on January 12, 2021. She should have been deferred from PATH until April 2021. The Petitioner was referred to PATH on February 22, 2021, for an appointment on March 1, 2021, which was still within the 3-month deferral. The Department did not meet their burden that they followed Department policy and procedures in sanctioning the Petitioner's FIP and FAP cases before the 3-month deferral had ended in April 2021.

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 did not act in accordance with Department policy when it closed the Petitioner's FIP case for a lifetime for not participating with the PATH program for a 3rd noncompliance and 2nd time sanction for FAP resulting in a 6-month disqualification for the Petitioner. 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 of initiating a redetermination of the Petitioner's eligibility for FIP and FAP benefits retroactive to her application dated [REDACTED] 2021, because the Petitioner did not receive her 3 months deferral.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.



CF/nr

Carmen G. Fahie
Administrative Law Judge
for Elizabeth Hertel, 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

Courtney Jenkins
22 Center Street
Ypsilanti, MI 48198

Washtenaw County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

Petitioner

██████████ - via first class mail

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██████████, MI ██████████