



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 12, 2021
MOAHR Docket No.: 21-003720
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an administrative hearing was held on September 9, 2021.

Petitioner personally appeared and testified unrepresented.
Petitioner did not call any witnesses.
Petitioner Exhibit I.1 was offered and admitted into evidence.

The Department of Health and Human Services (Department) was represented by Domini Melson, FIS.

The Department called Erma Curz, FIM as a witness.

Department Exhibit A.216 was offered and admitted into the record.

ISSUE

Did the Department properly close Petitioner's FAP and properly decrease Petitioner's FAP effective September 1, 2021 due to Petitioner's failure to participate in employment and/or self-sufficiency related activities for a second time?

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 February 18, 2021 Petitioner claimed that she was disabled and unable to comply with federal and state self-sufficient/work requirements required to receive welfare benefits.
2. Petitioner's household receives FAP and FIP benefits.

3. Petitioner had previously received a sanction for failure to comply.
4. The Department forwarded Petitioner's medical packet to MRT for review. On July 13, 2021 DDS returned a decision notice stating Petitioner is not disabled.
5. On July 14, 2021 Petitioner was mailed an appointment notice for July 26, 2021. Petitioner failed to complete PATH orientation.
6. On August 2, 2021 the Department issued a 1605 and 2444 notifying Petitioner of the sanctions for failure to comply closing FIP and reducing FAP. Petitioner and her child continue to receive MA benefits.
7. On August 2, 2021 Petitioner filed a hearing request.

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.

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 Department administers the program pursuant to MCL 400.10.

In this case, applicable policy and procedure can be found at BEM 233A, BEM 233B, BAM 220, and BAM 600. Applicable federal regulations can be found at 7 CFR 273 et al.

Here, Petitioner is a [REDACTED]-year old female, standing [REDACTED] at [REDACTED] pounds. Under the BMI chart Petitioner is obese. MRT concluded after a thorough review of Petitioner's extensive medical records that Petitioner is not disabled under medical vocational grid rule 203.28 as she is capable of doing other work. Upon issuance of the MRT decision, Petitioner failed to comply with the work first requirements and asked for an appeal.

After a careful review of the credible and substantial evidence of record, the undersigned does not find that the MRT medical review was incorrect under the federal and state requirements in assessing disability and fitness for participation in the Michigan programs. Federal and state law requires that the State of Michigan have verifications when issuing welfare benefits of exemptions from federally mandated work requirements. Here, evidence indicates that Petitioner can do other work. Failure of the State of Michigan to comply with required congressional federal mandates can subject the state to significant financial penalties. A review of Petitioner's medical file, which was examined in detail by the MRT, does not find Petitioner disabled. Petitioner has not prevailed at the federal social security level. This reviewing forum does not find that the MRT did not act in accordance with law and policy, or that the MRT decision was not supported by credible and substantial evidence. As such, the Department's decision is upheld.

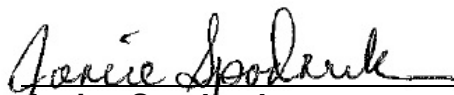
It is noted that Petitioner's Exhibit I.1, the MRI report, does not contain work restrictions which would bar Petitioner from participation in the work program.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

JS/cc



Janice Spodarek
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

Via Email:

MDHHS-VanBuren-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
B. Sanborn
MOAHR

Petitioner- Via USPS:

[REDACTED]
[REDACTED], MI [REDACTED]