



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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Date Mailed: May 5, 2022
MOAHR Docket No.: 22-001530
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 April 28, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearings Facilitator.

ISSUE

Did the Department properly disqualify Petitioner from receipt of Food Assistance Program (FAP) benefits due to noncompliance with Partnership. Accountability. Training. Hope (PATH) requirements?

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 enrolled in FAP.
2. Petitioner was notified of the requirement to attend an appointment at the Michigan Works! Agency (MWA) on or about February 8, 2022.
3. Petitioner did not attend the MWA appointment because she believed that her submission of the deferral forms in January 2022 based on her traumatic brain injury (TBI) as well as her homelessness qualified her for a deferral from the requirement to attend PATH programs.
4. On February 17, 2022, the Department issued a Notice of Noncompliance to Petitioner informing her that she had been scheduled an appointment for February 23, 2022 to establish good cause for her failure to attend her initial PATH

appointment and indicated that this was the second instance of noncompliance meaning her Family Independence Program (FIP) case would close for a minimum of six months.

5. On March 22, 2022, the Department issued another Notice of Noncompliance and scheduled another triage appointment to establish good cause for failure to attend her initial PATH appointment and noted that this was the second instance of noncompliance meaning she would be disqualified from both FAP and FIP for six months.
6. On the same day, the Department issued a Notice of Case Action informing Petitioner that her FIP benefits had been denied effective March 16, 2022 and her FAP benefits reduced effective March 1, 2022 for failure to comply with employment and/or self-sufficiency-related activities.
7. On April 1, 2022, Petitioner submitted a verbal request for hearing disputing the denial of FIP benefits and reduction in FAP benefits.

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).

Family Independence Program (FIP)

The 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.

Petitioner submitted a verbal request for hearing on April 1, 2022. Pursuant to policy, the FIP requires a written request for hearing. BAM 600 (March 2021), p. 2. Since Petitioner's request for hearing as made verbally, and not in writing, the portion of Petitioner's request for hearing attributable to the **FIP** is **DISMISSED**.

Food Assistance Program (FAP)

The 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 this case, Petitioner requested a hearing disputing the Department's reduction of her FAP benefits for failure to attend the PATH program. Per policy, non-deferred adult

members of a FAP group must comply with certain work-related requirements in order to receive FAP benefits. BEM 230B (January 2018), p. 1. FAP clients who are noncompliant with work requirements are disqualified from receipt of FAP benefits unless the client is deferred. *Id.* Deferrals are granted based upon age, care of a child, care of a disabled individual, disability, enrollment in a post-secondary education program, employment, applicants for Supplemental Security Income (SSI), substance abuse treatment center participation, or applicants and recipients of Unemployment Compensation Benefits (UCB). BEM 230B, pp. 3-6. Deferrals for disability require verification if the disability is not obvious or the information provided is questionable. BEM 230B, p. 4. Acceptable sources of verification include:

- Approval or receipt of SSI, Retirement Survivors Disability Insurance (RSDI), or disability related MA;
- An evaluation signed by a fully licensed psychologist that the client has an IQ of 59 or less;
- A statement from an M.D./D.O./P.A. that the person is unable to work;
- DHS-54A Medical Needs; DHS-40 Medical Examination Report; DHS-49D Psychiatric/Psychological Examination Report; other written statement;
- A medically documented pregnancy complication confirmed by an M.D./D.O./P.A., certified nurse-midwife, OB-GYN nurse practitioner, or OB-GYN clinical nurse specialist which includes an expected delivery date.

In this case, Petitioner testified that she had submitted documentation to the Department regarding her TBI in January 2022. The Department did not dispute that Petitioner had submitted the deferral documentation. Since the Department does not dispute that the deferral forms were submitted nor has the Department asserted that the forms were inaccurate or missing required information, the Department has not shown that Petitioner was properly disqualified from the FAP.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it disqualified Petitioner from FAP.

DECISION AND ORDER

The portion of Petitioner's request for hearing attributable to the **FIP** is **DISMISSED**.


The Department's decision is **REVERSED** with respect to FAP.

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:

1. Redetermine Petitioner's eligibility for FAP effective March 1, 2022;

2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/mp



Amanda M. T. Marler
Administrative Law Judge

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

Email Recipients:

MDHHS-Wayne-31-Grandmont-Hearings
D. Sweeney
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First-Class Mail Recipient:

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