



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 19, 2022
MOAHR Docket No.: 22-003009
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 August 11, 2022 via teleconference. Petitioner appeared and represented herself. Pamela Brooks-Brown, Family Independence Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly disqualify Petitioner from the Family Independence Program (FIP) and the Food Assistance Program (FAP)?

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 an ongoing recipient of FAP benefits.
2. On ██████████ 2022, Petitioner applied for FIP (Exhibit A, p. 10).
3. On February 24, 2022, MDHHS conducted a telephone interview with Petitioner (Exhibit A, p. 10). Petitioner indicated that she had a disability and that her doctor could not complete the required medical forms until the doctor received the results from ongoing medical tests.
4. From March 2, 2022 to March 9, 2022, Petitioner completed various requirements associated with FIP, including a Partnership. Accountability. Training. Hope. (PATH) orientation, an initial PATH application eligibility period (AEP) meeting, a

financial literacy workshop, a resume workshop, an interview skills workshop and successfully completed AEP.

5. On March 28, 2022, MDHHS approved Petitioner's application for FIP (Exhibit A, p. 10).
6. On April 1, 2022, MDHHS determined that Petitioner was in non-compliance due to her lack of participation in the PATH program (Exhibit A, p. 15).
7. On April 8, 2022, Petitioner participated in a reengagement meeting with MDHHS (Exhibit A, p. 15).
8. On June 6, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that her FIP case would be closed, effective July 1, 2022 ongoing (Exhibit A, p. 18). The reason given for the closure was that Petitioner, for a second time, failed to participate in employment and /or self-sufficiency-related activities or she quit a job, was fired, or reduced her hours without good cause (Exhibit A, p. 19). The notice further indicated that Petitioner was ineligible for FIP benefits from July 1, 2022 through December 31, 2022 (Exhibit A, p. 19).
9. On June 15, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits for a household size of one, beginning June 1, 2022 (Exhibit A, p. 5). The notice indicated that Petitioner was excluded from the FAP household due to a disqualification related to her failure to participate in employment or self-sufficiency-related activities (Exhibit A, p. 6).
10. On June 22, 2022, MDHHS held a triage meeting with Petitioner (Exhibit A, p. 1).
11. On ████████ 2022, Petitioner filed a hearing request to dispute her FAP benefit rate and the closure of her FIP case (Exhibit A, p. 3).

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. 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.

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. MDHHS 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, MDHHS determined that Petitioner was disqualified from FIP for a period of six months due to her failure to participate in employment and/or self-employment activities. Due to the disqualification, MDHHS also removed Petitioner from her FAP group, which caused her FAP benefits to decrease.

FIP is a cash assistance program designed to help individuals and families become self-sufficient. BEM 209 (January 2022), p. 1. Individuals are eligible for FIP if they satisfy all financial and non-financial eligibility requirements. *Id.* Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (January 2022), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.* WEIs not referred to PATH will participate in other activities to overcome barriers so they may eventually be referred to PATH or other employment service provider. MDHHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties.

At application, specialists are required to conduct a preliminary barrier assessment to determine the client's readiness for a PATH referral. BEM 229 (January 2021), pp. 1-2. Barriers include access to childcare, transportation and certain disabilities. *Id.*, p. 2. If barriers exist, MDHHS must temporarily defer an applicant from the PATH program attendance until the barrier is removed. *Id.* Regarding medical disabilities that require further assessment or verification, MDHHS must temporarily defer an applicant before a decision about a lengthier deferral is made. *Id.* Clients should not be referred to orientation and AEP until it is certain that barriers to participation have been removed and disabilities have been accommodated. If an individual qualifies for a deferral, PATH is not mandatory, and the individual is not referred to PATH at application. *Id.*, p. 3. When assigned to PATH, clients must engage in and comply with all PATH assignments while the FIP application is pending. BEM 229 (January 2021), p. 6. PATH engagement is a condition of FIP eligibility for clients assigned to PATH. *Id.*

MDHHS must make reasonable efforts to ensure that persons with disability-related needs or limitations will have an effective and meaningful opportunity to benefit from MDHHS programs and services to the same extent as persons without disabilities. BEM 230A, p. 2. Efforts to accommodate persons with disabilities includes modifying program requirements, providing the person with extra assistance and extending job search and job readiness time limits. *Id.*, p. 4. Individuals receiving RSDI on the basis of disability or blindness are deferred from PATH. *Id.*, p. 10. Individuals with mental or physical illnesses, limitations or incapacity expected to last less than three months may qualify

for short-term incapacity and may be deferred for up to three months. *Id.*, p. 11. MDHHS is required to verify the short-term incapacity or length of the incapacity and set a medical review date. *Id.* If an individual has an incapacity or disability expected to last more than 90 days, the individual may qualify for long-term incapacity, and be deferred from the PATH program and work-related activities. *Id.*

In this case, Petitioner credibly testified that she suffers from physical and mental health conditions which limit her ability to attend work-related activities, especially in-person activities. MDHHS records indicate that Petitioner informed MDHHS that she had a disability on or about [REDACTED], 2022 (Exhibit A, p. 10). MDHHS requested that Petitioner verify her disability and sent her a form (54-E/3503) to complete, which was due back to MDHHS by February 28, 2022 (Exhibit A, p. 10). MDHHS testified that it did not receive the form back from Petitioner by the deadline. Prior to the deadline, Petitioner communicated with MDHHS that the form would be late (Exhibit A, p. 10). At the hearing, Petitioner clarified that she was unable to complete the form by the deadline because her doctor was waiting on certain test results and could not complete the form until the results were available. When Petitioner informed MDHHS that the form would be late, MDHHS advised her that she needed to participate in the PATH program until it received the proper documentation of her medical conditions (Exhibit A, p. 10).

Given Petitioner's claimed disability, MDHHS should have temporarily deferred Petitioner from the PATH program until further assessment or verification could be obtained. See BEM 229, p. 2. Petitioner should not have been referred to PATH until her barriers were removed or her disability was accommodated. Petitioner testified that her physical disability prevented her from using her legs or walking. She stated that she was able to attend many of the meetings that were remote or over the phone, but that she struggled to attend meetings in-person. An example of a reasonable accommodation would be to allow Petitioner to participate in required meetings remotely. In addition, Petitioner notified MDHHS prior to the deadline for the medical verification that she could not obtain the form by the deadline because her doctor was waiting on test results. For FIP, if the client contacts MDHHS prior to the due date and requests an extension, the specialist may grant an extension. BAM 130 (January 2022), p. 7. No evidence was presented that MDHHS granted Petitioner an extension to complete the form verifying her medical conditions.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities, is penalized under Department policy. BEM 223A (January 2022), p. 1. Penalties included case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and a lifetime closure for the third episode of noncompliance. *Id.* A FIP-related disqualification can also extend to the participant's eligibility for FAP. See BEM 233B (January 2019), p. 1.

In this case, MDHHS determined that Petitioner was non-compliant with the FIP program for failing to participate in the PATH program. The first episode of noncompliance was on April 1, 2022 and the second episode of noncompliance was on

or about June 6, 2022. However, both episodes of noncompliance stem from Petitioner's failure to complete PATH requirements. As described above, MDHHS has failed to satisfy its burden of showing that it properly determined that Petitioner was a WEI, and therefore, that PATH was mandatory. Thus, MDHHS improperly disqualified Petitioner from the FIP and FAP programs.

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 MDHSS failed to act in accordance with Department policy when it disqualified Petitioner from FIP and FAP.

DECISION AND ORDER

Accordingly, the MDHHS' decision is **REVERSED**.

MDHHS 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. Remove the employment-related noncooperation sanctions/disqualification applied to Petitioner's FAP and FIP cases between April 1, 2022 and June 30, 2022;
2. Reinstate Petitioner's FIP case, effective July 1, 2022 ongoing, and redetermine Petitioner's eligibility for FIP, requesting additional information regarding Petitioner's medical conditions, if necessary;
3. If Petitioner was eligible for FIP from July 1, 2022 ongoing, issue Petitioner supplemental payments for benefits that she was entitled to receive but did not receive;
4. Include Petitioner in her FAP group and redetermine the group's eligibility for benefits for a household of two, beginning June 1, 2022 ongoing;
5. Issue supplemental FAP payments for any benefits that Petitioner was entitled to receive but did not, from June 1, 2022 ongoing; and
6. Notify Petitioner of its decision(s) in writing.

LJ/tm



Linda Jordan
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

Via-Electronic Mail :

DHHS
LaClair Winbush
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227
**MDHHS-Wayne-31-Grandmont-
Hearings@Michigan.gov**

Interested Parties

M. Holden
D. Sweeney
G. Vail
BSC4
MOAHR

Via-First Class Mail :

Petitioner

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