



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: December 16, 2022
MOAHR Docket No.: 22-005370
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 December 15, 2022, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Mita Bahtia, Case Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

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 FIP recipient.
2. Petitioner was previously satisfying her work-related activity requirement by participating in job searches.
3. On October 10, 2022, Petitioner was advised by Michigan Works Association (MWA), that she had exceeded her job search time limit and needed to begin volunteer services (Exhibit A, p. 16). Petitioner agreed by signing a reengagement agreement.
4. Petitioner did not attend volunteer services. Petitioner indicated she was having issues with her daycare provider. Petitioner was an ongoing Child Development and Care (CDC) recipient.

5. On October 15, 2022, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective November 1, 2022, ongoing (Exhibit A, pp. 7-11). Petitioner was also advised she was subject to a three-month sanction.
6. On October 15, 2022, the Department sent Petitioner a Notice of Noncompliance informing Petitioner that she was noncompliant with PATH and a triage was scheduled on October 21, 2022 (Exhibit A, pp. 12-14).
7. On October 21, 2022, Petitioner attended her triage appointment and good cause was not found.
8. On [REDACTED], 2022, Petitioner requested a hearing disputing 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.

In this case, Petitioner was notified that she had exceeded the time limit to perform job searches to satisfy her work-related activity requirement. Petitioner was notified she was required to engage in volunteer services.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. A Work Eligible Individual (WEI) who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A, p. 1. Penalties include case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A, p. 1.

Time limits apply to Job Search/Job Readiness and Vocational Educational activities. BEM 230A, p. 19. The limit for each WEI assigned to Job Search/Job Readiness is a week of federally required hours times 12 weeks. BEM 230A, p. 19. When information

provided by an appropriate source indicates the need for reasonable accommodation, the Department may extend the job search/job readiness time limit. BEM 230A, p. 4.

The Department testified that Petitioner's FIP benefit case closed because she failed to engage in volunteer services. As a result, the Department sent Petitioner a Notice of Noncompliance on October 14, 2022, stating she was noncompliant with work-related activities and that her triage was scheduled on October 21, 2022. The Department also sent Petitioner a Notice of Case action informing her that her FIP benefit case was going to be closed effective November 1, 2022, ongoing, and that she would be subject to a three-month sanction.

Before closing a client's FIP case, the Department must follow certain procedures. Once the Department places a client in noncompliance, the Department will schedule a triage to determine if the client has good cause for the noncompliance. BEM 233A, p. 4. At the triage, the Department must consider good cause, even if the client does not attend. BEM 233A, p. 10. If the client establishes good cause within the negative action period, benefits will be reinstated. BEM 233A, p. 13. If the client does not establish good cause for noncompliance, the client will be subject to penalties. BEM 233A, p. 8.

The Department testified that Petitioner attended the scheduled triage appointment. Petitioner was previously advised by the Department that she needed to find a new daycare provider, if she was unable to obtain childcare with her current provider. As of the date of the triage, Petitioner had not obtained a new provider. As a result, the Department determined Petitioner did not have good cause for her noncompliance.

Good cause for noncompliance includes that the client requested childcare services from the Department, PATH, or other employment services provider prior to case closure for noncompliance and childcare is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A, p. 5.

At the hearing Petitioner testified that in the beginning of October 2022, her daycare provider informed her that her child could not return to care until a past due balance was paid. Petitioner did not agree with her provider, as she had CDC benefits that should have covered the cost of care. Petitioner was advised by the Department that if her child could not continue care with her current provider, she needed to find a new provider. Petitioner stated she was unable to obtain new childcare in such a short time.

Petitioner established good cause for her noncompliance. It was unreasonable for the Department to request that Petitioner locate new childcare within such a short period of time. The Department is able to accommodate clients by extending the job search time limit. Therefore, the Department did not act in accordance with policy when it determined that Petitioner did not establish good cause for her noncompliance. Thus, the Department did not act in accordance with policy when it closed Petitioner's FIP benefit case and subjected her to a penalty.

DECISION AND ORDER

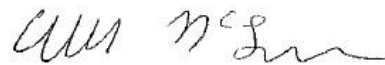
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefit case.

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:

1. Redetermine Petitioner's FIP eligibility as of November 1, 2022, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements to Petitioner is entitled to receive;
3. Remove all employment-related noncompliance penalties from Petitioner's FIP benefit case on or about November 1, 2022.
4. Notify Petitioner of its FIP decision in writing.

EM/tm



Ellen McLemore
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
Yvonne Hill
Oakland County DHHS Madison
Heights Dist.
30755 Montpelier Drive
Madison Heights, MI 48071
**MDHHS-Oakland-DistrictII-
Hearings@michigan.gov**

Interested Parties

D. Sweeney
G. Vail
BSC4

Via-First Class Mail :

Petitioner

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