



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 18, 2024
MOAHR Docket No.: 24-006744
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on July 11, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Margo Sherman, Family Independence Program Specialist, and Corlette Brown, Hearings Facilitator.

ISSUE

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

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits due to non-compliance with FIP 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. On [REDACTED] [REDACTED] 2023, Petitioner submitted an application for FAP and FIP to the Department through MiBridges and indicated that she is disabled but did not apply or plan to apply for Social Security disability. (Exhibit A, pp. 24 – 31).

2. On December 27, 2023, the Department sent Petitioner notice that she was scheduled for Partnership. Accountability Training. Hope. (PATH) orientation on January 2, 2024. (Exhibit A, p. 10, Line 3).
3. On January 4 and January 10, 2024, the Department sent Petitioner a Medical Needs form. (Exhibit A, p. 7, Lines 144, 145).
4. On January 17, 2024, the Department received a completed Medical Needs form that indicated Petitioner was unable to work but did not include an end-date. (Exhibit A, p. 11).
5. On January 25, 2024, the Department received a picture of a completed Medical Needs form dated January 17, 2024 that indicated Petitioner was unable to work and that the situation was expected to continue for 1 year. (Exhibit A, p. 7, Line 152; Exhibit B, p. 1).
6. On January 26, 2024, the Department sent Petitioner a Medical Determination Verification Checklist (MVCL) and requested Petitioner do or submit the following by February 5, 2024: a) Apply for SSA disability benefits, b) Complete and return a Medical Social Questionnaire, c) Complete and return an Authorization to Release Protected Health Information, and d) Complete and return a Reimbursement Authorization. (Exhibit A, pp. 22 – 23).
7. As of February 8, 2024, the Department had not received the verifications requested on January 26, 2024. (Exhibit A, p. 7, Line 156).
8. On February 26, 2024, Petitioner submitted multiple incomplete documents to the Department. (Exhibit A, p. 6, Lines 162 – 167; p. 11).
9. On February 28, 2024, the Department sent Petitioner notice that she was scheduled for PATH orientation on March 5, 2024. (Exhibit A, p. 10, Line 1).
10. Petitioner did not attend the scheduled PATH orientation.
11. On March 13, 2024, the Department sent Petitioner (i) a Notice of Non-Compliance (NNC) notifying her that due to non-compliance with employment and/or participation in self-sufficiency activities her FIP would close and she would be disqualified from FAP, and (ii) a Notice of Case Action (NOCA) closing Petitioner's FIP case and reducing Petitioner's FAP assistance by removing her from the FAP group due to her failure to participate in employment or self-sufficiency activities. The NNC included a notice of a scheduled appointment for March 20, 2024 to discuss Petitioner's non-compliance. (Exhibit A, pp. 13 – 21).
12. On March 19, 2024, the Department and Petitioner discussed Petitioner's non-compliance for FIP, and the Department concluded that Petitioner had not established good cause for her failure to attend the PATH orientation. (Exhibit A, p. 6, Line 170).

13. On June 6, 2024, the Department received a request for hearing from Petitioner disputing the closure of her FIP and decrease of her FAP due to non-compliance with program requirements. (Exhibit A, pp. 3 – 4).

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).

Petitioner requested a hearing disputing the closure of her FIP and decrease of her FAP due to non-compliance with FIP program requirements and asserting that she did comply.

FIP

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.

To be eligible to receive FIP benefits, recipients who are work eligible individuals (WEI) are required to engage in employment and self-sufficiency related activities, including PATH, so they can become self-supporting. BEM 230A (October 2022), p. 1. A WEI who refuses, without good cause, to appear and participate with PATH or other employment service provider and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p. 1; BEM 233A (October 2022), p. 2. The penalty may be a) a delay in eligibility, b) denial of eligibility, or c) case closure for three months (first occurrence), six months (second occurrence), or lifetime (third occurrence). BEM 233A, p. 1.

However, if a client claims to be disabled and unable to participate in work or PATH for more than 90 days because of a mental or physical condition, this is long-term incapacity and the Department should place the client in a temporary deferred status, subject to the client providing verification of their disability. BEM 230A, pp. 11 – 12. Verification and establishment of a long-term incapacity for FIP involves three steps. The first step is establishing a disability that will last longer than 90 days through medical verification. BEM 230A, p. 12. The second step requires the Department to obtain additional information and documents from the client in order to make a medical determination, which includes the client applying for benefits through the Social Security Administration (SSA). BEM 230A, p. 12; BAM 815 (April 2018), pp. 2 – 5. For the final step, the Department will forward the client's completed required forms and any medical evidence provided to the Disability Determination Service (DDS) to determine whether

the client is eligible for a long-term disability deferral from participation in FIP employment-related activities. BEM 230A, p. 12.

In order for the Department to make a medical determination, as required by step two, the client must complete and return a) the Medical-Social Questionnaire, b) an Authorization to Release Protected Health Information, and c) a Reimbursement Authorization; and apply for Social Security disability benefits. BAM 815, pp. 1, 4. If a FIP applicant fails to complete and return the required forms, the application may be denied, or negative actions may be taken in active programs. BAM 815, p. 2.

In this case, after the Department received the completed Medical Needs form from Petitioner that verified Petitioner's disability was expected to last more than 90 days (Exhibit A, p. 11; Exhibit B, p. 1), it sent her a MVCL that directed her to submit the following by February 5, 2024: a) proof Petitioner had applied for SSA, b) a completed Medical-Social Questionnaire, c) an Authorization to Release Protected Health Information, and d) a Reimbursement Authorization. (Exhibit A, pp. 22 – 23). The evidence established, and Petitioner confirmed, that she did not provide the requested verifications to the Department.

Because Petitioner did not return the required verifications to the Department, on February 27, 2024, the Department properly removed Petitioner's temporary disability deferral and rescheduled her for PATH orientation for March 5, 2024. BEM 230, p. 7. The Department testified that Petitioner did not attend the PATH orientation on March 5, 2024. Because Petitioner failed to attend the PATH orientation, the Department issued an NNC, notifying her that, due to her noncompliance with PATH activities, FIP case would close for a period of three months and scheduling a triage for Petitioner to explain her reasons for not complying, and a NOCA closing Petitioner's FIP case effective April 1, 2024 ongoing for failure of Petitioner to comply with program requirements. (Exhibit A, pp. 13 – 21).

PATH participants cannot be terminated from PATH without the Department first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A, p. 9. In this case, the Department conducted a triage appointment with Petitioner on March 19, 2024 and noted that during the appointment, Petitioner acknowledged that she did not attend PATH and did not intend to do so. (Exhibit A, p. 6, Line 170). Petitioner expressed a similar sentiment in her request for hearing, indicating that she has no reason to participate in PATH because she is waiting on social security. (Exhibit A, p. 4).

Because Petitioner failed to complete the medical determination process and lost her temporary deferral from PATH, she was required to attend PATH. When Petitioner failed to attend PATH or provide good cause to the Department in support of her failure to do so, the Department acted in accordance with Department policy when it issued a NNC, closing Petitioner's FIP case for a period of three months, and a NOCA closing Petitioner's FIP case effective April 1, 2024 ongoing.

FAP

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.

A client receiving FAP who is disqualified from FIP for non-compliance will also be disqualified from FAP when: a) the client was active for both FIP and FAP on the date of the non-compliance; b) the client did not comply with FIP employment requirements; c) the client is subject to a penalty on the FIP program; d) the client is not deferred from FAP work requirements; and e) the client did not have good cause for the non-compliance. BEM 233B (January 2019), pp. 1, 3. The only exception to FAP disqualification is if the client cares for a child under age 6 or the client is engaged in education. BEM 233B, p. 2. No evidence was presented that Petitioner qualified for one of the exceptions. For the first occurrence of non-compliance, a FAP client will be disqualified for one month or until compliance, whichever is longer. BEM 233B, p. 6. The Department must conduct a triage appointment with the client and make a determination regarding a client's good cause prior to the effective date of the disqualification. BEM 233B, p. 2.

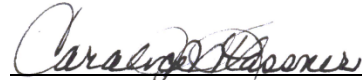
In this case, Petitioner was active for both FIP and FAP and, as explained above, failed to attend PATH and was disqualified from FIP for a period of three months as a result. She did not have a deferral from FAP work requirements and did not establish good cause for her failure to comply with FIP work requirements. Because Petitioner did not care for a child under age 6 and was not engaged in education, the Department properly imposed a FAP disqualification for one month or until compliance, whichever is longer, and reduced her FAP benefits by removing her from the FAP group during the period of disqualification.

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 acted in accordance with Department policy when it imposed disqualifications from FIP and FAP on Petitioner due to non-compliance with work requirements and when it closed Petitioner's FIP case and reduced Petitioner's FAP benefits by removing her from the FAP group for the period of non-compliance.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** as to both FIP and FAP.

CML/nr



Caralyce M. Lassner
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

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Petitioner

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