



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 9, 2024
MOAHR Docket No.: 24-005530
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 video hearing was held on July 3, 2024, via Zoom. Petitioner was present with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

Did the Department properly deny Petitioner's Family Independence Program (FIP) benefit application?

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 FAP recipient.
2. On April [REDACTED] 2024, Petitioner submitted an application for FIP benefits (Exhibit A, pp. 27-33).
3. On April [REDACTED] 2024, the Department sent Petitioner a PATH Appointment Notice informing her that her husband, and group member, had to attend a PATH orientation scheduled on April [REDACTED] 2024 (Exhibit A, pp. 34-35).

4. On April ■ 2024, Petitioner completed a redetermination related to her FAP benefit case (Exhibit A, pp. 22-25).
5. On April ■ 2024, the Department sent Petitioner an Appointment Notice informing her that she had an interview scheduled on April ■ 2024, related to her FAP redetermination (Exhibit A, p. 26).
6. On April ■ 2024, the Department sent Petitioner a Notice of Missed Interview informing her that she failed to attend her scheduled interview and she must reschedule her FAP interview by April ■ 2024 (Exhibit A, p. 10).
7. On May ■ 2024, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied and that her FAP benefit case was closing effective May 1, 2024, ongoing (Exhibit A, pp. 14-19).
8. On May 10, 2024, Petitioner submitted a request for hearing disputing the Department's actions related to her FIP, FAP and Medical Assistance (MA) benefit cases.

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).

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.

In this case, Petitioner submitted an application for FIP benefits on April 5, 2024. On April 10, 2024, the Department sent Petitioner a PATH Appointment Notice informing her that her husband was scheduled to attend orientation on April 22, 2024.

All Work Eligibility Individuals (WEI), unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. BEM 230A (October 2022), p. 4. Most WEIs are referred to the Partnership. Accountability Training. Hope. (PATH) program provided by the one-stop service center serving the client's area when one of the following exists: (i) a WEI applies for FIP; (ii) a WEI applies to be a member added to a FIP group; or (iii) a WEI is no longer temporarily deferred from employment services. BEM 230A, p. 4. Applicants must complete the 21-day PATH

application eligibility period (AEP) part of orientation, which is an eligibility requirement for approval of the FIP application. BEM 229 (October 2015) p. 1. PATH participants must complete all of the following in order for their FIP application to be approved: (i) begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; (ii) complete PATH AEP requirements; and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p. 1. The Department will deny the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229, p. 1. Applicants and members added to the FIP group who are working a minimum of 40 hours per week at the state minimum wage are not referred to PATH. BEM 230A, pp. 7-8. The client's participation in employment meets the requirements. BEM 230A, p. 8.

The Department testified that Petitioner's husband failed to attend his scheduled PATH orientation, nor did he contact the Department or PATH personnel to reschedule his orientation appointment. Petitioner's husband conceded that he did not attend his PATH orientation appointment. Petitioner's husband testified that he intended to ask the Department for a deferral from PATH, as he was employed 40 hours per week.

Although Petitioner's husband conceded that he did not attend his PATH orientation, the Department failed to establish that Petitioner's husband was properly referred to PATH. Petitioner's husband testified at the hearing that he was employed 40 hours per week and stated that he submitted verification of his employment on April [REDACTED] 2024 (Exhibit 1, p. 9). The Department conceded at the hearing that there was no attempt to verify Petitioner's husband's employment status, and that he was automatically referred to PATH. Per policy, an individual that is employed 40 hours per week is not referred to PATH. The Department failed to establish that Petitioner's husband was not employed 40 hours per week and that he was properly referred to PATH. Thus, the Department failed to establish that it properly denied Petitioner's FIP application for her husband's failure to attend PATH.

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.

Petitioner was an ongoing FAP recipient. The Department sent Petitioner a redetermination with a due date of April 1, 2024. Petitioner also had an interview related to her FAP benefit case scheduled on April [REDACTED] 2024. However, Petitioner did not return the redetermination by the due date of April [REDACTED] 2024, and as a result, the interview did not take place on that date. Petitioner contacted the Department to reschedule the interview and an Appointment Notice was sent to Petitioner on April [REDACTED] 2024, informing her that she had an interview scheduled on April [REDACTED] 2024, regarding her FAP interview.

During the processing of a FAP application, the Department will conduct a telephone interview before approving benefits. BAM 115 (October 2019), p. 1. For FAP, the interview must be held by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. BAM 115, p. 24. If a client misses their interview appointment, the department will send a Notice of Missed Interview, advising them that it is the client's responsibility to request another interview date. BAM 115, p. 24. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. BAM 115, p. 24. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, p. 24.

The Department testified that Petitioner was contacted on April [REDACTED] 2024, for her FAP interview. The Department was unable to reach Petitioner to complete the interview. As a result, the Department sent Petitioner a Notice of Missed Appointment, advising her that she had until April [REDACTED] 2024, to reschedule her interview. The Department testified Petitioner did not contact the Department to reschedule her interview.

At the hearing, Petitioner's husband testified that he was not contacted by the Department on the scheduled interview date. Petitioner's husband stated on multiple occasions that he was certain the FAP interview was scheduled on April [REDACTED] 2024.

It is evident from the record that Petitioner's husband confused the interview date for the FAP redetermination that was scheduled on April [REDACTED] 2024, with his appointment to attend PATH, which was scheduled on April [REDACTED] 2024. The Department properly followed policy when it attempted to interview Petitioner related to her FAP benefit case by sending a Notice of Interview, contacting her on the interview date and by sending a Notice of Missed Interview. Petitioner did not complete the interview process. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case.

MA

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 hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's MA program benefits. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing related to her MA benefit case, as the issue had been resolved. The Request for Hearing was withdrawn with respect to Petitioner's MA benefit case and is hereby **DISMISSED**.

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 acted in accordance with Department policy when it closed Petitioner's FAP benefit case. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FIP application.

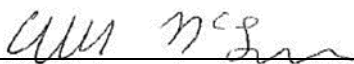
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's FAP benefit case and **REVERSED IN PART** with respect to Petitioner's FIP benefit case.

Petitioner's request for hearing related to her MA benefit case is **DISMISSED**.

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. Reinstate and reprocess Petitioner's April ■ 2024 FIP application;
2. If Petitioner is eligible for FIP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/dm



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
Susan Noel
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MOAHR

Via-First Class Mail :

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]