



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], MI [REDACTED]

Date Mailed: August 28, 2024
MOAHR Docket No.: 24-006864
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 7, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist. Michael Samuel served as Arabic interpreter.

ISSUE

Did the Department properly determine Medical Assistance (MA) eligibility for Petitioner's husband?

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

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 or around [REDACTED] 2024, Petitioner submitted an application requesting cash assistance for her children.
2. On or around April 18, 2024, the Department sent Petitioner a Notice of Case Action advising her that for the month of March 2024, she was approved for FIP benefits in the amount of \$274. However the Notice of Case Action also advised Petitioner that for March 1, 2024, and May 1, 2024 ongoing, she was ineligible for FIP because for at least the third time, she or a group member failed to participate in employment and/or self-sufficiency -related activities without good cause. The Notice of Case

Action advised Petitioner that the group is no longer eligible for FIP benefits. (Exhibit B)

- a. The Notice of Case Action did not address Petitioner's FIP eligibility for the month of April 2024. (Exhibit B)
3. In or around [REDACTED] 2024, Petitioner's husband requested MA benefits.
4. The Department failed to timely process Petitioner's husband's MA eligibility.
5. On or around June 11, 2024, Petitioner requested a hearing disputing the Department's actions regarding the FIP and MA programs.
6. On July 19, 2024, Department sent Petitioner a Health Care Coverage Determination Notice advising her that her husband was approved for full coverage MA benefits from April 1, 2024, ongoing. (Exhibit B)
7. It was established that the issue with respect to MA benefits for Petitioner's husband was resolved, as he was approved for full coverage MA benefits from April 1, 2024, ongoing. Therefore, the hearing request regarding MA is DISMISSED.

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 requested a hearing disputing the Department's actions regarding her FIP benefits. It was initially unclear what negative action taken by the Department with respect to her FIP case that Petitioner sought to dispute, as Petitioner's testimony was unclear and inconsistent. However, after some discussion, it was established that Petitioner submitted an application for FIP benefits on or around [REDACTED] 2024. The Department initially asserted, in review of its Hearing Summary, that Petitioner's case was either closed or denied because her husband reported to the employment coordinator that he applied for the cash program in error and that he did not want cash assistance because he was driving for Door Dash. The Department testified that Petitioner informed the Department she was unaware that her husband withdrew from the cash program and that she would reapply for FIP benefits. It is noted that the Department did not present any evidence, such as case comments from Bridges or case notes from

the employment coordinator in support of its testimony that Petitioner's husband withdrew the request for cash assistance.

Later in the hearing, the Department representative located a Notice of Case Action dated April 18, 2024, that, as referenced above, advised Petitioner that for the month of March 2024, she was approved for FIP benefits in the amount of \$274. The Notice of Case Action also advised Petitioner that for March 1, 2024, ongoing and May 1, 2024, ongoing, she was ineligible for FIP because for at least the third time, she or a group member failed to participate in employment and/or self-sufficiency -related activities without good cause. The Notice of Case Action advised Petitioner that the group is no longer eligible for FIP benefits. (Exhibit B). The discrepancy in FIP eligibility for the month of March 2024 was unexplained by the Department. (Exhibit B).

FIP is a temporary cash assistance program meant to support a family's movement to self-sufficiency. As a condition of FIP eligibility, all Work Eligible Individuals ("WEI") must engage in employment and/or self-sufficiency related activities, such as participating in the PATH program. The Department also requires clients to accept employment when offered. BEM 230A (October 2022), pp. 1-2; BEM 233A (October 2022), pp. 1-2. The WEI can be considered noncompliant for doing any of the following (including other reasons) without good cause: failing or refusing to participate in PATH or other employment service providers as required; failing to provide legitimate documentation of work participation; failure or refusing to appear for a scheduled appointment or meeting related to assigned activities; stating orally or in writing a definite intent not to comply with program requirements; failing or refusing to participate in employment and/or self-sufficiency related activities or to participate in a require activity; or failing or refusing to accept a job referral, complete a job application or appear for a job interview. BEM 233A, pp 1-4. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that is based on factors that are beyond the control of the noncompliant person. Claims of good cause must be verified and documented. The various good cause reasons that are to be considered by the Department are found in BEM 233A, pp. 4-7.

A WEI who fails, without good cause, to participate in employment or self-sufficiency-related activities or refuses suitable employment, must be penalized. BEM 230A, pp. 1-2. In processing a FIP closure due to an employment penalty, the Department is required to send the client a notice of noncompliance, which must include: the name of the noncompliant individual; the date(s) of the noncompliance; the reason the client was determined to be noncompliant; the penalty duration; and the scheduled triage appointment. BEM 233A, pp. 10-12. Pursuant to BAM 220, a Notice of Case Action must also be sent which provides the reason(s) for the action. BAM 220 (November 2023). Work participation program participants will not be terminated from a work participation program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, pp. 9-12.

A triage must be conducted and good cause must be considered even if the client does not attend, with particular attention to possible disabilities and unmet needs for accommodation. BEM 233A, pp. 9-12. Clients must comply with triage requirements and

provide good cause verification within the negative action period. BEM 233A, pp. 12-13. Good cause is determined using the best information available during the triage and prior to the negative action date. If the client does not provide a good cause reason for the noncompliance, the Department will determine good cause based on the best information available. BEM 233A, p. 10-13. The first occurrence of non-compliance without good cause results in FIP closure for not less than three calendar months; the second occurrence results in closure for not less than six months; and a third occurrence results in a FIP lifetime sanction. BEM 233A, p. 8.

The Department presented no documentary evidence in support of the denial reasons identified in the April 18, 2024, Notice of Case Action. The Department representative did not identify the noncompliance date nor was any evidence presented regarding the failure of the household member to comply with work related activities. There was no Notice of Noncompliance presented for review and no information regarding whether a triage was held. Although the Department asserted that Petitioner's husband was subject to a lifetime sanction for a third occurrence of noncompliance without good cause, the Department did not present any evidence to support a first, second, or third penalty or sanction. The Department identified several dates, but none supported three occurrences of noncompliance without good cause or that Petitioner's case had previously been closed due to noncompliance without good cause. There was no penalty or noncompliance sanction counter presented for review. Petitioner asserted that at some point, her husband was a recipient of SSI, which may impact his work participation status, although the exact date his receipt of SSI benefits is unknown. Upon review, the Department failed to establish that Petitioner's FIP case was subject to a lifetime sanction for the third occurrence of noncompliance without good cause.

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 did not act in accordance with Department policy when it denied Petitioner's FIP case effective March 1, 2024.


DECISION AND ORDER

Accordingly, the hearing request with respect to MA is **DISMISSED** and the Department's FIP 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. Remove the lifetime noncompliance sanction/penalty that was imposed on Petitioner's FIP case for a third occurrence of noncompliance without good cause;
2. Reinstate Petitioner's FIP case effective March 1, 2024;
3. Issue FIP supplements to Petitioner from March 1, 2024, ongoing, in accordance with Department policy if otherwise eligible; and
4. Notify Petitioner in writing of its decision.

ZB/ml


Zainab A. Baydoun
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

Wayne-Inkster-DHHS

26355 Michigan Ave

Inkster, MI 48141

MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties

BSC4

B Sanborn

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]