



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 11, 2016  
MAHS Docket No.: 15-020480  
Agency No.: [REDACTED]  
[REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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; 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 February 29, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], [REDACTED], Hearing Facilitator, and [REDACTED], Assistance Payment Worker.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) 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 recipient in the FIP program.
2. Petitioner has a disabled child who receives Supplemental Security Income (SSI) (Exhibit C).
3. On April 20, 2015, Petitioner verified that her disabled child attended school full-time.

4. On October 13, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FIP case was closing effective November 1, 2015 because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
5. On October 23, 2015, the Department received Petitioner's written request for 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.

At the hearing, Petitioner presented four documents for admission into evidence. The Department was asked to fax the documents so that they could be considered in this matter. The Department failed to do so. Therefore, to the extent any information in the documents is relevant, the testimony on the record is considered, viewing it, if necessary, in the light most favorable to Petitioner.

The Department did not present the relevant Notice of Case Action in this matter but contends that Petitioner's case closed because she had exceeded the 60-month federal limit for assistance. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits for their household once they receive a cumulative total of 60 months of federally-funded FIP benefits unless they are eligible for an exception to the federal time limit. BEM 234 (July 2013), p. 2.

However, in order to establish that Petitioner has exceeded the federal time limit, the Department must first present sufficient evidence to show that the client has received FIP benefits under the federal time limit for 60 or more months. In this case, the Department presented a summary sheet asserting that Petitioner received 60 countable months under the federal limit but failed to present the time limit benefit month detail, the monthly time limit summary showing each month Petitioner received FIP benefits that counted toward her federal time limit count. In failing to do so, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's case for exceeding the federal time limit for receipt of FIP benefits.

Furthermore, an exception to the federal time limit count applies to individuals who as of January 9, 2013 were (i) approved for FIP benefits **and** (ii) exempt from participation in the PATH program for reason of domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2. Without the individual monthly counter showing Petitioner's FIP status in January 2013 to establish her receipt of FIP benefits and any PATH deferral status, it is unclear whether Petitioner was eligible for an exception to the federal time limit.

The federal time limit exception ends for a person receiving FIP under the exception once the individual is no longer qualified for one of the listed PATH deferral reasons or no longer meets other standard eligibility criteria for FIP. BEM 234, p. 2. However, if Petitioner is eligible for an exception to the federal time limit, Department policy provides that she is eligible for state-funded FIP benefits even if she exceeds 60 months of federally-funded FIP if she remains eligible for **any** of the employment deferral reasons that make an individual eligible for the exception to the federal time limit. BEM 234, p. 2.

In this case, the Department testified that Petitioner had been eligible for a deferral from the PATH program due to caring for a child with disability but that she was no longer eligible for this deferral once the child was in school full time. In order to continue to be eligible for a deferral from participation in PATH activities due to caring for a child with disabilities, a doctor or physician's assistant must verify the disability of the child needing care and the extent and duration of the disability, that the parent is needed in the home to provide care, and that the parent cannot engage in an employment-related activity due to the extent of care required. See BEM 230A (October 2015), p. 23. Petitioner acknowledged that her disabled child was in school full-time. The child's full-time school attendance established that Petitioner was not needed in the home to care for the child. Petitioner's testimony that she had to bring her child to physical therapy before or after school and that she was required to take the child for an out-of-state physician referral failed to counter the evidence that Petitioner was not required to care for the child in the home during school hours. Therefore, Petitioner was no longer eligible for a deferral from PATH activities due to caring for a disabled child. However, in her hearing request Petitioner indicated that she was disabled and that she was the victim of domestic violence. Therefore, even if she is no longer eligible for a PATH deferral for caring for a disabled child, she may be eligible for FIP benefits if she is eligible for (i) an exception to the federal time limit based on her status on January 9, 2013 **and** (ii) a deferral, in accordance with Department policy, based on a disability, establishing incapacity, or domestic violence.

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 case.

**DECISION AND ORDER**

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. Reinstate Petitioner's FIP case effective November 1, 2015;
2. Reprocess Petitioner's FIP eligibility for November 2015 ongoing to consider whether (i) Petitioner exceeded 60 months of receipt under the federal time limit count and (ii) if so, whether she was eligible for the FIP federal time limit exception and an ongoing PATH deferral on the basis of establishing incapacity, incapacitated more than 90 days, or domestic violence;
3. Issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from November 1, 2015 ongoing; and
4. Notify Petitioner in writing of its decision.



ACE/tlf

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**Alice C. Elkin**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
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