



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 21, 2016
MAHS Docket No.: 16-011640
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; 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 September 13, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with [REDACTED], Father of her Child and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

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 of FIP benefits.
2. Petitioner was deferred from participation in the work program (PATH) on the basis that she was disabled.
3. On or around February 10, 2016, the Department sent Petitioner a medical determination verification checklist and associated verification forms that she was instructed to have completed and returned to the Department by February 22,

2016. The documentation was needed to determine if Petitioner's PATH deferral could continue.

4. Petitioner timely submitted the Medical Social Questionnaire DHS-49F, the DHS-54E Medical Needs for PATH form, and the DHS-1555.
5. The case comments indicate that Petitioner's deferral was denied based on a failure to cooperate with the DDS medical determination process, however, the Department was unable to explain or identify how Petitioner failed to cooperate. (Exhibit C)
6. Petitioner's FIP case closed effective September 1, 2016. The Department did not send Petitioner a Notice of Case Action advising of the case closure or reason for intended action.
7. On August 9, 2016, 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.

The FIP benefit program is not an entitlement. BEM 234 (July 2013), p. 1. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits unless they are eligible for an exception to the federal time limit. An exception to the federal 60 month time limit exists for individuals who were, as of January 9, 2013, (1) approved/active for FIP benefits **and** (2) exempt from participation in the Partnership. Accountability. Training. Hope. (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2; MCL 400.57a(4). The exception continues as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p. 1. The exception will end once the individual no longer qualifies for any of the employment deferral reasons or they no longer meet other standard eligibility for FIP. BEM 234, p. 2.

In this case, the Department provided a Federal TANF Time Limit showing each of the countable months Petitioner received FIP benefits. (Exhibit A). The Department testified that it relied on this list to establish that 123 countable months of FIP benefits were issued to Petitioner during the relevant time period. The Michigan FIP Time Limit Counter presented by the Department establishes that as of January 9, 2013, Petitioner was approved for FIP benefits and that she was eligible for an exception to the FIP federal time limits on the basis that she was deferred from participation in PATH under the incapacitated to work category. (Exhibit B).

At the hearing, the Department testified that Petitioner was previously deferred from participation in the PATH program on the basis that she was determined incapacitated to work. The Department testified that in February 2016, it requested that Petitioner submit medical verifications needed to determine if she was still eligible for deferral. The Department identified the documents timely submitted by Petitioner, however, it was unclear based on the Department's testimony if the medical verifications were forwarded to the DDS for a continued deferral determination. See BAM 815; BEM 230A. Although the Department testified that Petitioner did not cooperate with the DDS medical determination process, the Department could not clearly explain how Petitioner failed to cooperate with the requirements. (Exhibit C). The Department presented case comments and a Cash Notice Reasons summary which indicated that Petitioner's deferral ended on July 19, 2016, and her FIP case closed effective September 1, 2016, on the basis that she exceeded the 60 month federal lifetime limit on receipt of FIP assistance. (See Exhibit C; Exhibit E; Exhibit F). However, it was established at the hearing that the Department did not send Petitioner a Notice of Case Action or similar eligibility notice advising her that her FIP case would be closing, the effective date of the case closure, or the reason for the intended action. See BAM 220 (July 2016).

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 because the Department failed to establish that Petitioner failed to cooperate with DDS, the Department did not act in accordance with Department policy when it closed Petitioner's FIP case due to exceeding the 60 month federal time limit and prior to sending her a negative action notice of case closure.

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 September 1, 2016;
2. Issue FIP supplements to Petitioner from September 1, 2016, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



ZB/tlf

Zainab A. Baydoun
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]

Petitioner

[REDACTED]

Via Email:

[REDACTED]