



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]

Date Mailed: May 15, 2017
MAHS Docket No.: 17-004575
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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, an in-person hearing was held on May 11, 2017, from [REDACTED], Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED]; [REDACTED] and [REDACTED].

ISSUES

Did the Department properly implement and certify a previous hearing decision issued on January 20, 2017?

Does the undersigned Administrative Law Judge (ALJ) have the jurisdiction to determine if the Department properly issued Petitioner Food Assistance Program (FAP) benefits that she was eligible to receive from September 1, 2015 to December 31, 2015?

Did the Department properly determine that Petitioner exceeded the 60-month federal lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception?

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 is an ongoing recipient of FAP benefits.
2. Petitioner was an ongoing recipient of FIP benefits.
3. On November 16, 2016, Petitioner previously filed a hearing request, protesting her FAP benefits. [Exhibit A, p. 8.]
4. On January 3, 2017, an administrative hearing was held in which Administrative Law Judge (ALJ) ██████████ issued a hearing decision on January 20, 2017 concluding the Department failed to provide Petitioner with the correct FAP allotment from January 1, 2016 to August 31, 2016, and ordered the Department to issue her FAP supplements from January 1, 2016 (Reg. No. 16-017747). [Exhibit A, pp. 8-13.]
5. As a result of ALJ ██████████ hearing decision, Petitioner's correct monthly FAP allotment that she was supposed to receive was ██████ for a group size of four between January 1, 2016 to August 31, 2016.
6. Petitioner originally received ██████ in monthly FAP benefits for the period of January 1, 2016 to August 31, 2016, which meant that the Department had to supplement her ██████ in FAP benefits from January 1, 2016 to August 31, 2016. [Exhibit B, pp. 4 and 6.]
7. The Department complied with ALJ ██████████ hearing decision and issued Petitioner a supplement of ██████ for each benefit month during the periods of January 1, 2016 to August 2016. [Exhibit B, pp. 3 and 5.]
8. On or about January 19, 2017, and March 20, 2017, Petitioner applied for FIP benefits.
9. On January 27, 2017 and March 24, 2017, the Department sent Petitioner Notice of Case Actions notifying her that her FIP application was denied because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. [Exhibit C, pp. 1-7.]
10. On February 9, 2017, and March 30, 2017, Petitioner filed a hearing requests, protesting the Department's action. [Exhibit A, pp. 2 and 4-7.]

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 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.

Preliminary matter

Based on Petitioner's hearing request and testimony, she is disputing the following: (i) did the Department fail to comply with ALJ [REDACTED] hearing decision issued on January 20, 2017; (ii) does the undersigned have the jurisdiction to determine if the Department properly issued Petitioner FAP benefits that she was eligible to receive from September 1, 2015 to December 31, 2015; and (iii) did the Department improperly deny her FIP applications due to her exceeding the 60-month federal lifetime limit on FIP benefits. The undersigned will address each issue separately below:

Implementing the Hearing Decision

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (October 2016), p. 41. Some hearing decisions require implementation by the local office. BAM 600, p. 41. Implement a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 41. **Do not provide a notice of case action. The hearing decision serves as notice of the action.** BAM 600, p. 41. If implementation requires a redetermination, send a notice of case action on the redetermination action. BAM 600, p. 41.

The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 43. The Department completes and mails the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 43.

In the present case, Petitioner argued that the Department failed to comply with ALJ [REDACTED] hearing decision. On Petitioner's hearing request received on February 9, 2017, she stated that she was awarded [REDACTED] by the judge (ALJ [REDACTED]) but on her hearing request received on March 30, 2017, Petitioner stated she was awarded [REDACTED] [Exhibit A, pp. 5 and 7.] Petitioner acknowledged that she should be receiving [REDACTED] in monthly FAP benefits. In sum, Petitioner is disputing that the Department did not comply with ALJ [REDACTED] hearing decision and that she is owed supplements.

On January 20, 2017, ALJ [REDACTED] issued a hearing decision finding that the Department failed to provide Petitioner with the correct FAP allotment from January 1, 2016 to August 31, 2016, and ordered the Department to issue her FAP supplements from January 1, 2016 (Reg. No. 16-017747). [Exhibit A, pp. 8-13.] As a result of ALJ [REDACTED] hearing decision, Petitioner's correct monthly FAP allotment that she was supposed to receive was [REDACTED] for a group size of four between January 1, 2016 to August 31, 2016. Petitioner originally received [REDACTED] in monthly FAP benefits for the period of January 1, 2016 to August 31, 2016, which meant that the Department had to supplement her \$ [REDACTED] FAP benefits from January 1, 2016 to August 31, 2016 (entitled to [REDACTED] amount already received, results in a supplement owed of [REDACTED]). As part of the evidence record, the Department presented Petitioner's Benefit Summary Inquiry, which showed that the Department supplemented her [REDACTED] monthly FAP benefits from March 2016 to August 2016 on January 3, 2017. [Exhibit B, pp. 3 and 5.] However, the Department did not supplement her [REDACTED] in FAP benefits for the months of January and February of 2016 until April 15, 2017. [Exhibit B, p. 3.] It appears the Department did not process ALJ [REDACTED] hearing decision timely to issue the supplements for January and February of 2016 because she was issued the supplements almost three months after her hearing decision was issued. See BAM 600, p. 43 (The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision.) Nevertheless, the undersigned finds this to be harmless error by the Department because the Department ultimately complied with ALJ [REDACTED] hearing decision. The evidence established that the Department complied with ALJ [REDACTED] hearing decision and issued Petitioner a supplement of [REDACTED] for each benefit month during the periods of January 1, 2016 to August 31, 2016. [Exhibit B, pp. 3-6.]

Accordingly, the undersigned finds that the Department acted in accordance with Department policy when it complied with the hearing decision issued on January 20, 2017 (Reg. No. 16-017747).

FAP benefits from September 2015 to December 2015

Petitioner also disputed the she was owed FAP supplements for September 2015 to December 2015. However, the undersigned lacks the jurisdiction to address Petitioner's FAP allotment from September 2015 to December 2015.

The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2016), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

Moreover, supplemental Food Assistance benefit issuances (supplements) must be issued: when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements are limited to underissuances in the twelve months before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits.

BAM 406, p. 3.

Based on the above policy information, the undersigned lacks the jurisdiction to address Petitioner's FAP allotment from September 2015 to December 2015. Petitioner's hearing requests were filed on February 9, 2017, and March 30, 2017, and the above policy references do not allow the undersigned to address her FAP benefits from almost 1-½ years ago. [Exhibit A, pp. 2 and 4-7.] Accordingly, the undersigned lacks the jurisdiction to address Petitioner's FAP benefits from September 2015 to December 2015 in accordance with Department policy. See BAM 406, pp. 1 and 3 and BAM 600, p. 6.

FIP time limit

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. See BEM 234, p. 2. An exception 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.

Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets any exemption criteria. BEM 234, p. 7.

In this case, on or about January 19, 2017, and March 20, 2017, Petitioner applied for FIP benefits. On January 27, 2017 and March 24, 2017, the Department sent Petitioner Notice of Case Actions notifying her that her FIP application was denied because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. [Exhibit C, pp. 1-7.]

At the hearing, the Department presented as evidence Petitioner's Federal TANF Time Limit. [Exhibit A, pp. 17-19.] This document showed that Petitioner had received a cumulative total of 60 months or more of FIP benefits as of September 1, 2011. [Exhibit A, pp. 17-19.] Thus, at the time of her applications, she exceeded the 60-month federal lifetime limit and was not eligible for FIP benefits.

In response, Petitioner argued that she did not exceed the time limit. Petitioner argued and provided as evidence, school schedules, work schedules, and other proof, in attempt to argue that it was not possible for her to receive FIP benefits during certain time periods the Department stated that she did. [Exhibit 1, pp. 1-15.] In fact, as part of Petitioner's evidence record, she indicated on a Michigan FIP Time Limit document provided to her by the Department, notes and comments during the benefits months in which she stated reasons that she did not receive FIP benefits. [Exhibit 1, pp. 1-3.] For example, for September 2011, she indicated that she did not receive FIP benefits. [Exhibit 1, pp. 1-3.]

In response to Petitioner's claim that she did not receive FIP benefits for certain time periods, the Department presented Petitioner's Benefit Summary Inquiry, which showed her FIP issuance history from August 1, 2009 to February 28, 2013. [Exhibit C, pp. 11-26] It should be noted that the Department testified that its system, Bridges, could only provide her records as far back as August 2009. As stated above, Petitioner claimed, for example, that she did not receive FIP benefits for September 2011. However, Petitioner's Benefit Summary Inquiry clearly showed that received a FIP issuance for September 2011. [Exhibit C, p. 17.] The evidence shows a paid date, the date the funds were made available, and shows her name as grantee/provider. [Exhibit C, p. 17.] The undersigned reviewed other months she claimed that she did not receive FIP benefits, but the undersigned found this to be untrue.

Based on the foregoing evidence and testimony, the Department properly denied Petitioner's FIP applications in accordance with Department policy.

First, the undersigned did not find Petitioner's argument persuasive that she did not receive FIP benefits during certain time periods the Department stated that she did. Instead, the Department presented credible evidence showing that she received FIP benefits and that some of those benefits were countable for purposes of the federal time limit. The Federal TANF Time Limit clearly indicated that Petitioner had received a cumulative total of 60 months or more of FIP benefits as of September 2011. [Exhibit A, p. 17.]

Second, there is a federal time limit exception policy that states an exception 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. As of January 9, 2013, the evidence indicated that Petitioner did not meet any of the above exceptions in order to continue receiving FIP benefits. In fact, the Michigan FIP Time Limit stated for January 2013, she was in non-cooperation with employment and training. [Exhibit C, p. 8.] Policy states that for each month an individual serves a sanction period, those months count toward their state time limit. BEM 234, p. 6. Sanction months should be counted starting Oct. 1, 2007. BEM 234, p. 6.

In summary, the Department acted in accordance with Department policy when it denied Petitioner's FIP applications because she exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. See BEM 234, pp. 1 and 7.


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 (i) that the Department acted in accordance with Department policy when it complied with the hearing decision issued on January 20, 2017 (Reg. No. 16-017747); (ii) the undersigned lacks the jurisdiction to address Petitioner's FAP benefits from September 1, 2015 to December 31, 2015; and (iii) the Department acted in accordance with Department policy when it denied Petitioner's FIP eligibility effective February 16, 2017, and April 16, 2017, for exceeding the federal time limit on receipt of FIP benefits.

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

IT IS ALSO ORDERED that Petitioner's hearing request concerning her FAP benefits for the period of September 1, 2015 to December 31, 2015 is **DISMISSED**.

EF/tm


Eric J. Feldman
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]

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CC:

[REDACTED]
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