



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

Date Mailed: October 26, 2017
MAHS Docket No.: 17-010458
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 September 26, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Darnell Perkins, Family Independence Specialist.

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. On an unverified date and for an unconfirmed reason, the Department closed Petitioner's FIP case.
3. On August 3, 2017 Petitioner requested a hearing disputing the closure of his FIP case.

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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

As a preliminary matter, a review of Petitioner's hearing request indicates that he checked the box disputing the Department's actions with respect to the denial/closure of his SDA case. However, Petitioner clarified that he was not an ongoing recipient of SDA benefits and did not apply for SDA benefits prior to the hearing request. Petitioner stated that he checked the SDA box by mistake and did not have any issues regarding the SDA program. Therefore, the hearing request with respect to SDA is **DISMISSED**. The hearing continued with respect to the closure of Petitioner's FIP case.

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. Temporary Assistance to Needy Families (TANF) is the federal grant that funds the majority of FIP benefits issued by the Department. 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. The exception continues as: the individual's ongoing FIP EDG reaches 60 TANF federal months and 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. Any month that an individual's FIP assistance is state funded is not a countable month towards the federal time limit count. BEM 234 at pp. 3-4 outlines the limited number of situations in which a FIP case will be state funded.

At the hearing, the Department testified that Petitioner's FIP case closed because the household exceeded the 60 month federal TANF Time Limit. However, because the Department did not present a Notice of Case Action or other eligibility notice, the effective date of the case closure and the exact reason for intended action was not confirmed. The Department provided a Federal TANF Time Limit summary showing each of the countable months that Petitioner received FIP benefits. The Department

testified that it relied on this list to establish that 60 countable months of FIP benefits were issued to Petitioner during the relevant time period. (Exhibit A). Petitioner testified that he is disabled and receives SSD benefits and further that his wife takes care of him. The Department did not present any evidence regarding Petitioner and his wife's work participation status and whether they were mandatory work participants or deferred from participation in the PATH program for the time periods or months at issue. The Federal TANF Time Limit summary indicates that Petitioner had an active FIP case in January 2013, however, the Department did not present the Michigan FIP Time Limit summary, thus, it was unknown whether the group was eligible for an exception to the federal time limit. It was further unknown if Petitioner's FIP benefits were state funded for any of the months.

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 hearing request with respect to SDA 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. Reinstate Petitioner's FIP case effective the date of closure;
2. If Petitioner is eligible for FIP benefits, issue FIP supplements to Petitioner from the date of case closure, ongoing, for any FIP benefits he was eligible to receive but did not, 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

Via Email:

MDHHS-Wayne-55-Hearings
BSC4 Hearing Decisions
B. Cabanaw
D. Shaw
MAHS

Petitioner – Via First-Class Mail:

