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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 17, 2019
MAHS Docket No.: 18-012100
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 14, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's 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 September 4, 2018, the Department received Petitioner's Renewal of Benefits form for the FIP on which he indicated the student status for each of his children.
2. On November 5, 2018, the Department issued a Notice of Case Action to Petitioner informing him that his FIP benefit was closing effective December 1, 2018, because his Daughter [REDACTED] was in non-cooperation with school attendance requirements, and because he had reached the lifetime limit of FIP benefits.
3. Petitioner has received 19 countable months of FIP pursuant to the State of Michigan policies, and 97 months according to the Federal policies.

4. On November 14, 2018, the Department received Petitioner's request for hearing disputing the closure of his FIP benefits

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's FIP benefit was closed because he reached the maximum lifetime limit for the receipt of FIP benefits and was no longer receiving an exemption from the time limit requirement. The FIP is a program which is funded primarily by the Temporary Assistance to Needy Families (TANF) program, a program created and monitored by the federal government. BEM 234 (July 2013), p. 1. TANF has a 60-month lifetime limit on assistance for adult-headed families. *Id.* Each month an individual receives federally funded FIP, the individual receives a count of one month. BEM 234, p. 2. A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. *Id.* Since FIP is also funded by State funds and not exclusively by Federal funds, a State FIP lifetime limit is also applied. BEM 234, p. 4. The State lifetime limit is 48 months. *Id.* Each month an individual receives FIP benefits while in Michigan, the month is counted towards the limit, regardless of the funding source. *Id.* A family is ineligible for FIP when a mandatory group member in the program group reaches the 48-month state time limit. *Id.*

Michigan provides an exception to the federal 60-month time limit and will state-fund the FIP group for individuals that met the following criteria on January 9, 2013:

- An approved/active ongoing FIP group **and**
 - Who was exempt from participating in the PATH program for Domestic Violence.
 - Age 65 or older.
 - Establishing incapacity.
 - Incapacitated more than 90 days.
 - Care of a spouse with disabilities.
 - Care of a child with disabilities.

BEM 234, p. 2. The exception continues so long as the individual's ongoing FIP group reaches 60 TANF federal months **and** the individual remains in one of the above employment deferral reasons in which case the group will become state funded after the 60th month, or so long as the individual, at application, is approved as any of the above employment deferral reasons in which case the group again will be state funded. *Id.* The exception ends when one of the above individuals no longer qualifies for one of the above employment deferral reasons or they no longer meet other standard eligibility criteria for FIP. *Id.* The FIP case will close or the application will be denied. *Id.*

In order to qualify for the employment deferral reason of caring for a child with disabilities, the following must apply:

- The child with disabilities lives with the parent providing the care.
- A doctor/physician's assistant (P.A.) verifies all of the following in writing or by using a DHS-54A Medical Needs form or DHS-54E Medical Needs-Path form.
 - The child with disabilities requires a caretaker due to extent of the disability.
 - The parent is needed in the home to provide care.
 - The parent cannot engage in employment-related activities due to the extent of care required.

BEM 230A (July 2018), p. 17.

Any month that an individual's FIP assistance is state funded is not a countable month toward the federal time limit count. BEM 234, p. 3. The Department has decided to state fund cases which include two parent households (except when one receives Supplemental Security Income (SSI) because then it is federal funded), groups that have a parent deferred from PATH due to a verified disability or long-term incapacity lasting longer than 90 days, and groups that have an adult who has accumulated more than 60 months on their federal time limit counter but meet federal time limit exception criteria. *Id.*

In determining whether an exception is applicable, the Department should verify the circumstance. Verification should be obtained when required by policy, as a local office option, or when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (April 2017), p. 1. In addition, the Department must give the client a reasonable opportunity to resolve any discrepancy between the client's statements and information from another source. BAM 130, p. 9. In order to obtain verification, the Department is required to tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Usually, the request for verification is made through a DHS-3503, Verification Checklist (VCL). *Id.*

On the Renewal of Benefits form, Petitioner indicated that his daughter [REDACTED] who had been the reason for Petitioner's inability to work as she needed 24/7 care, was now enrolled in school full time. The Department also received a copy of her report card for the 2016/2017 school year. Based upon this information, there was no discrepancy with regard to her attendance in school. However, the Department provided no evidence that a verification of Petitioner's situation with regard to caring for his child was requested or provided. During the hearing, Petitioner credibly argued that due to his daughter's illness, she requires regular blood transfusions which take several hours. Furthermore, due to her illness, he has had to take her to the hospital on 80 separate days in the last year. Finally, he argued that due to the demands on his time to care for his child, he is unable to maintain steady employment. He supported his argument by providing a letter from the Detroit Medical Center Children's Hospital of Michigan confirming much of his testimony including a medical opinion indicating a parent must be available at all times to bring the child to the hospital. Since the Department was aware of his daughter's condition based upon previous applications, renewals, and deferments, the Department should have requested additional clarification on household circumstances. Without requesting verification of the household circumstances, the Department could not determine whether Petitioner was eligible for an exception to the lifetime limits.

In addition to the clarification necessary to determine Petitioner's daughter's medical condition/status, the Department also should have sought clarification of Petitioner's other daughter [REDACTED] school status. As listed on the Renewal of Benefits form, she is listed as enrolled full time, but as having completed 12th Grade or a GED at [REDACTED] Academy. Her graduation date is then listed as May 30, 2022, with a Community [REDACTED] or Junior College. The information provided by Petitioner was conflicting and unclear. In one portion of the form, it appears that his daughter has completed her high school education and was enrolled in community college. In another portion of the form, it appears she is enrolled full time at [REDACTED] [REDACTED] a K-12 school. Based upon this, the Department should have sought clarification as required under BAM 130 as discussed above. Depending on her status, she may or may not be an eligible group member under BEM 210.

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 benefit due to reaching the federal lifetime limit and excluded Petitioner's daughter from the FIP group.

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 and Redetermine Petitioner's FIP eligibility;
2. Redetermine Petitioner's daughter [REDACTED] FIP eligibility;
3. If Petitioner is otherwise eligible, issue supplements to Petitioner in accordance with Department policy; and,
4. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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) 763-0155; 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

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

Petitioner

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