



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: February 19, 2019
MAHS Docket No.: 18-013496
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 14, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Ryan Clemons FIM. Michael Hill ES also appeared and testified for the Department. Department Exhibit 1, pp. 1-15 was received and admitted.

ISSUE

Did the Department properly close Petitioner’s Family Independence Program 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 a recipient of FIP benefits receiving \$ [REDACTED] per month.
2. On December 11, 2018, Notice of Case Action was sent to Petitioner informing her that her FIP benefits would close effective January 1, 2019.
3. On December 18, 2018, Petitioner requested hearing contesting the closure of FIP benefits.
4. On [REDACTED] [REDACTED] 2018, [REDACTED] [REDACTED] applied for FAP benefits and stated in her application that she resided in Petitioner’s household.
5. [REDACTED] [REDACTED] does not reside with Petitioner and did not reside with her in November and December 2018.

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.

Dependent Child

A dependent child is an unemancipated child who lives with a care-taker and is one of the following:

- Under age 18.
- Age 18 and a full-time high school student. See BEM 245, for definition of high school. BEM 210

Living Together

Living together means sharing a home where family members usually sleep except for temporary absences. BEM 210

In this case, [REDACTED] [REDACTED] applied for FAP benefits and stated that she resided with Petitioner. [REDACTED] [REDACTED] was 18 years old and was attending school, so the Department deemed that she was a mandatory group member on Petitioner's FIP case whose income also needed to be budgeted. After adding [REDACTED] [REDACTED] to the group and budgeting her income Petitioner was no longer eligible for FIP.

Petitioner credibly testified that [REDACTED] [REDACTED] was not residing with her at the time she applied for FAP benefits and has not resided with her since then. Petitioner credibly testified that [REDACTED] [REDACTED] has stayed at her home for a few nights but is not residing there. Since [REDACTED] [REDACTED] is not residing with Petitioner, she should not have been added to Petitioner's FIP group. BEM 210 Therefore, the closure of Petitioner's FIP case was improper and incorrect.

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 did not act 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 going back to the date of closure and remove [REDACTED] from the FIP group.
2. Issue a supplement for any missed benefits.

AM/nr



Aaron McClintic
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

Sarina Baber
22 Center Street
Ypsilanti, MI
48198

Washtenaw County DHHS- via electronic
mail

BSC4- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

Petitioner

[REDACTED]
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[REDACTED], MI
[REDACTED]