



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 30, 2019
MOAHR Docket No.: 19-007867
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 August 28, 2019, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Corlette Brown, Hearings Facilitator and Mashana Chunev, Eligibility Specialist.

ISSUE

Did the Department properly cancel 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 a FIP benefit recipient.
2. Petitioner's FIP case was cancelled.
3. In July 2019, Petitioner had a hearing at which the Administrative Law Judge ordered that FIP benefits be reinstated.
4. The FIP benefits were reinstated for the month of January, February and March 2019, but were canceled as of March 31, 2019, because Petitioner had received 60 months of FIP benefits in her lifetime.

5. On July 16, 2019, the Department sent Petitioner notice of case action that her at FIP case would be closed effective April 1, 2019, because law and policy placed a lifetime time limit on the receipt of assistance to the family independence program. Petitioner's family had received 60 months or more of benefits which is the time allowed for eligibility through the Federal government as of March 1, 2019.
6. On July 17, 2019, Petitioner filed a request for hearing to contest the Department's negative action.
7. On August 2, 2019, the Michigan Office of Administrative Hearings and Rules received a hearing summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Pertinent Department policy in BEM 234 indicates:

On Oct. 1, 1996, Michigan began the Family Independence Program.

The Family Independence Program (FIP) is not an entitlement.

FIP requires an individual to meet all eligibility criteria required for the receipt of federal or state funds or determined necessary by the department to accomplish the goals of the program.

Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. The message that FIP is temporary is an important part of how Michigan helps parents take advantage of the opportunities for work as well as self-sufficiency and independence. Families receiving FIP are to engage in activities that will help them gain financial independence and increase self-sufficiency.

Michigan operates a single-family Independence Program whose budgeting and accounting methods use both federal and state funds. To execute the most efficient, fair and cost-effective administration of the program, the proportion of federal and state funding associated with a case is dependent upon the group composition and/or individual characteristics on a case by case basis, as determined by the department.

On Oct. 1, 1996, Michigan law reduced the cumulative total of FIP to 48 months during an individual's lifetime. Also, under the Family Independence Program, a family is not eligible for assistance beyond 60 consecutive or non-consecutive federally funded months. Federally funded countable months began to accrue for FIP on Oct. 1, 1996. Counts accrued for every month a family received FIP, including months that met hardship criteria. As of Oct. 1, 1996, no hardship criteria exists in Michigan. BEM 234, page 1


The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, if any, finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with department policy and federal law when it determined that Petitioner was no longer eligible to receive Family Independence Program benefits because she had exceeded the 60 month limit. The Department has established its case by a preponderance of the evidence.

Petitioner indicated on the record that she was not notified that she was coming to the end of her FIP allotment eligibility and does not have money to purchase items for her children. Petitioner's allegation is a compelling equitable argument to be excused from the Department's program policy requirements. This Administrative Law Judge has no equity powers and cannot act in contravention of Department policy, federal or state laws. A review of Petitioner's case reveals that the Department appropriately cancel Petitioner's FIP benefits because she had exceeded both the 48 months of FIP benefit eligibility under Michigan law and the federally funded countable months of 60 consecutive or not consecutive federally funded months.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LL/hb



Landis Lain
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

LaClair Winbush
17455 Grand River
Detroit, MI 48227

Wayne County (District 31), DHHS

BSC4 via electronic mail

B. Cabanaw via electronic mail

G. Vail via electronic mail

Petitioner

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