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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 3, 2020
MOAHR Docket No.: 19-013012
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 22, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's application for 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. Petitioner was an ongoing FIP recipient.
2. On November 8, 2019, Petitioner submitted a Medical Needs form (Exhibit A, pp. 10-11).
3. On November 13, 2019, Petitioner submitted a Medical Needs form (Exhibit A, pp. 12-13).
4. On November 18, 2019, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FIP benefit case was closing effective January 1, 2020, ongoing, as she had exceeded the 48-month FIP time limit (Exhibit A, pp. 3-8).

5. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing FIP recipient. On November 18, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case would close effective January 1, 2020, ongoing. The Department informed Petitioner she was not eligible for FIP benefits because she received 48 months or more of FIP benefits.

The FIP program is not an entitlement. BEM 234 (July 2013), p. 1. Michigan operates a single Family Independence Program whose budgeting and accounting methods use both federal and state funds. BEM 234, p. 1. The state time limit reflects the number of remaining months an individual may receive FIP in the state of Michigan. BEM 234, p. 4. Michigan has a 48-month lifetime limit. BEM 234, p. 4. Each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month. BEM 234, p. 4. A family is ineligible for FIP when a mandatory group member in the program group reaches the 48-month state time limit. BEM 234, p. 1.

The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. BEM 234, p. 4. Effective Oct. 1, 2011, exemption months are months the individual is deferred from PATH for: (i) domestic violence; (ii) age 65 and older; (iii) a verified disability or long-term incapacity lasting longer than 90 days; or (iv) a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, p. 4.

The Department provided the State of Michigan FIP Time Limit Counter showing each of the countable months that Petitioner received state funded FIP benefits (Exhibit A, pp. 17-19). The Department testified that it relied on this list to establish that 48 countable months of FIP benefits were issued to Petitioner during the relevant time period. The Michigan FIP Time Limit Counter shows that Petitioner received 51 months of state funded FIP benefits. Of those 51 months, 6 of them were exempt, as Petitioner was entitled to an exemption. Additionally, Petitioner had 3 countable months under

which she was subject to a FIP sanction. Per policy, those months are countable. BEM 234, p. 6. The Michigan FIP Time Limit Counter shows Petitioner had 48 countable months.

The Department presented Medical Needs forms submitted by Petitioner on November 8, 2019 and November 13, 2019. The first Medical Needs form showed that Petitioner could work with limitations. The second Medical Needs form showed that Petitioner could not work due to a disability that was expected to last less than 90 days. The Department testified that Petitioner was deferred from PATH in November and December 2019 due to the Medical Needs form stating she had a short-term disability. However, the months were counted toward the 48-month total.

Per policy, a month is exempt from the state funded FIP count if an individual is deferred from PATH due to a verified disability or long-term incapacity lasting longer than 90 days. BEM 234, p. 4. Policy is vague as to whether the 90-day qualifier applies both to a long-term incapacity and a verified disability. Based on policy language alone, it is unclear as to whether an individual can be exempt from the FIP time limits due to a short-term disability.

The FIP time limit policy is derived from state law. Michigan law related to FIP time limits states:

Any month in which a recipient has been exempted from the JET program under section 57f(3) or (4)(b) shall not be counted toward the cumulative total of 48 months in a lifetime for family independence program assistance. Any month in which a recipient has been exempted from the JET program under section 57f(4)(e) or (f) may, in the department's discretion, be excluded from the count toward the cumulative total of 48 months in a lifetime for family independence program assistance.”

MCL 400.57(p).

The following individuals are exempt from participation in the PATH program:

- (a) A child under the age of 16.
- (b) A child age 16 to 18 who is attending elementary or secondary school full-time.
- (c) A recipient who has medical documentation of being disabled or medical documentation of an inability to participate in employment or the PATH program for more than 90 days because of a mental or physical condition.

(d) A recipient unable to participate as determined by the medical review team.

(e) A recipient aged 65 or older.

(f) A recipient of supplemental security income.

(g) A recipient of retirement, survivor, or disability insurance based on disability or blindness, or a recipient found eligible for retirement, survivor, or disability insurance based on disability or blindness who is in nonpay status.

MCL 400.57(f)(3).

The department may grant a temporary exemption from participation in the PATH program to any of the following:

(a) An individual who is suffering from a documented short-term mental or physical illness, limitation, or disability that severely restricts his or her ability to participate in PATH program activities. An individual with a documented mental or physical illness, limitation, or disability that does not severely restrict his or her ability to participate in the PATH program shall be required to participate in the PATH program at a medically permissible level. An exemption under this subdivision shall not exceed a period of 90 days without a review by a department caseworker.

(b) An individual for whom certain program requirements have been waived under section 56i. An exemption under this subdivision shall not exceed a period of 90 days without a review by a department caseworker.

(e) The spouse of a recipient who is verified as disabled and living in the home with the spouse if it is verified that the spouse is needed in the home full-time due to the extent of medical care required. An exemption under this subdivision shall not exceed a period of 365 days without a review by a department caseworker.

(f) A parent of a child who is verified as disabled and living in the home with the parent if it is verified that the parent is needed in the home due to the extent of medical care required. If the child attends school, the parent may be referred to the PATH program with limitations. An exemption

under this subdivision shall not exceed a period of 365 days without a review by a department caseworker.

MCL 400.57(4)

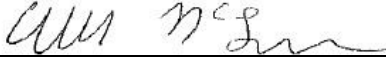
State law pertaining to PATH deferrals for short-term disabilities is set forth in MCL 400.57(4)(a). Per the statutory section related to months that are exempt from the state time limit, that section is not specifically listed as a deferral reason that qualifies for an exemption. Therefore, FIP recipients will receive a countable month for any time period that they are deferred from PATH due to a short-term disability. Thus, the Department acted in accordance with policy when it counted November and December 2019. The Department's evidence was sufficient to establish that Petitioner received a total of 48 countable months of state funded FIP benefits. As it follows, the Department acted in accordance with policy when it closed Petitioner's FIP benefit case.

It should be noted that Petitioner argued at the hearing that she was eligible for State Disability Assistance (SDA). The Department testified that Petitioner has never applied for SDA. Therefore, the matter will not be addressed.

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 that the Department acted in accordance with Department policy when it closed Petitioner's FIP benefit case. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

