



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: March 12, 2020  
MOAHR Docket No.: 20-000678  
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 March 5, 2020, from Detroit, Michigan. Petitioner was present with [REDACTED]. The Department of Health and Human Services (Department) was represented by Dianne Dubin, Family Independence Manager.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit 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 FIP recipient.
2. In [REDACTED] 2019, Petitioner submitted a Medical Needs form stating she had a disability that would last more than 90 days.
3. On October 4, 2019, the Department sent Petitioner a Medical Determination Verification Checklist (Exhibit A, pp. 3-4).
4. On October 23, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective December 1, 2019, ongoing (Exhibit A, pp. 5-8).

5. On [REDACTED], 2020, 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. In July 2019, Petitioner submitted a DHS-54A, Medical Needs form, stating that she had a disability that would last longer than 90 days. As a result, Petitioner was given presumptive eligibility and a deferral from employment-related activities while DDS was in the process of making a disability determination. The Department testified that on October 4, 2019, Petitioner was sent a DDS packet. The documents were due to be returned on October 14, 2019.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2015), p. 1; BEM 233A (April 2016), p. 1. At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred. BEM 230A, p. 11. Once a client claims a disability, he/she must provide the Department with verification of the of the disability. BEM 230A, p. 12. The verification must indicate the disability will last longer than 90 days. BEM 230A, p. 12. If the verification is not received, the disability is not established. BEM 230A, p. 12. The client is then required to participate fully in PATH. BEM 230A, p. 12.

Once the Department receives verification of a disability lasting longer than 90 days, the Department must then follow BAM 815 for obtaining a medical certification from DDS. BEM 230A, p. 12. This includes sending a DHS-3503-MRT, Medical Determination Verification Checklist; a DHS-3975, Reimbursement Authorization; a DHS-49-F, Medical-Social Questionnaire; a DHS-1555, Authorization to Release Protected Health Information; and a DHS-1551, Notice to Apply. BAM 815 (April 2018), pp. 5-6. If the client does not provide the requested verifications, the FIP case should be placed into closure for the failure to provide needed documentation. BEM 230A, p. 12.

The Department testified that Petitioner failed to return a current DHS-1555, Authorization to Release Protected Health Information. The Department also stated that Petitioner returned an incomplete DHS-49-F. Petitioner testified that she submitted all of the requested documents to the Department.

The Department did not present any evidence that a DHS-1555 was properly sent to Petitioner. The Department did not provide the entire DDS packet. The Department only submitted the DHS-3503 Medical Determination Verification Checklist that was sent to Petitioner. The Department also did not submit as evidence any of the documents that Petitioner did submit showing they were either incomplete or outdated. Additionally, the Department failed to produce a copy of Petitioner's Electronic Case File (ECF) to establish that she failed to submit the documents as requested by the Department. The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. In the absence of such evidence, the Department failed to establish that it properly followed policy when it closed Petitioner's FIP benefit case.

### **DECISION AND ORDER**

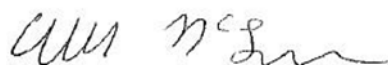
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP benefit case.

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. Redetermine Petitioner's FIP eligibility as of December 1, 2019, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

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**Ellen McLemore**  
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

**Via Email:**

MDHHS-Oakland-2-Hearings  
B. Sanborn  
B. Cabanaw  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

