



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 15, 2019
MAHS Docket No.: 18-012431
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 9, 2019, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Terri Stheiner, Eligibility Specialist. During the hearing, a 29-page packet of documents was offered into evidence and admitted as Department's Exhibit A, pp. 1-29.

ISSUE

Did the Department properly deny Petitioner's application for cash assistance under the Family Independence Program (FIP)?

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 and [REDACTED] are the parents of a minor child born September 7, 2010. Exhibit A, p. 13.
2. At some point, [REDACTED] applied for and received benefits from the Department, including Medicaid (MA), Food Assistance Program (FAP), and FIP cash assistance for the child. The FIP cash assistance case was closed, effective March 31, 2015. However, the MA and FAP cases remain open. The child is a group member for both of those programs.

3. On or about [REDACTED], 2018, Petitioner applied for FIP cash assistance. Exhibit A, pp. 7-12.
4. On October 8, 2018, Petitioner provided to the Department documents from Genesee Circuit Court in Michigan. Those documents detail Petitioner and [REDACTED] parenting time arrangements with respect to the child. Most relevantly, the documents provide for the child to spend 182.5 nights per year with each parent. Exhibit A, pp. 13-21.
5. On October 10, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his application for FIP cash assistance was denied. The Notice of Case Action stated, in relevant part, that Petitioner's "cash is being denied because child is on Mom's food stamp case. You can't have a child on 2 different cases. Mom would have to close her FAp and medical case and then you can apply for both cash and food asst." Exhibit A, pp. 22-25.
6. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of his FIP cash assistance application.

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 and [REDACTED] are the parents of a child born [REDACTED] 2010. At some point, [REDACTED] applied for and received assistance from the Department under multiple programs. On March 31, 2015, [REDACTED] FIP cash assistance case for the child was closed as she was time-limited out of the program. However, [REDACTED] maintained eligibility under at least the Food Assistance Program. Through present, [REDACTED] has had an open FAP benefits case with the child as a member of her group.

On or about [REDACTED] 2018, Petitioner submitted an application for FIP cash assistance to the Department. About one week later, Petitioner provided to the Department court documents showing that the child spends exactly one half of the nights in any given year with Petitioner and the other half with [REDACTED]. On October 10, 2018, the Department issued to Petitioner a Notice of Case Action

informing Petitioner that his FIP cash assistance application was denied “because child is on Mom’s food stamp case. You can’t have a child on 2 different cases. Mom would have to close her FAP and medical case and then you can apply for both cash and food asst.” This matter was then forwarded to the undersigned Administrative Law Judge after Petitioner’s submitted a timely hearing request objecting to the Department’s denial of his FIP cash assistance application.

FIP cash assistance is a program designed to help individuals and families become self-sufficient. BEM 209 (July 2017), p. 1. Cash assistance is available to an eligibility determination group (EDG) that meets all of the non-financial and financial requirements. BEM 209, p. 1. An EDG consists of those individuals living together whose information is needed to determine FIP eligibility. BEM 210 (April 2017), p. 2. When an individual applies for cash assistance, a determination is made regarding the makeup of the EDG for the program. BEM 209, p. 1. To be eligible for FIP cash assistance, the EDG must include a dependent child who lives with a legal parent, stepparent, or other qualifying caretaker while not including an adult who has been time-limited out of program eligibility. BEM 210, p. 1. Mandatory EDG members include all dependent children and their legal parents who are living together. BEM 210, p. 5.

Only a primary caretaker can receive FIP cash assistance for a child. BEM 210, p. 10. A primary caretaker is defined as the person who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half the days in a month. BEM 210, p. 9. If the child sleeps in the home of multiple caretakers an equal number of days in a month, the caretaker who applies and is eligible first is the primary caretaker for that program. BEM 210, p. 10. Notably, it is possible to have a different primary caretaker for different programs. BEM 210, p. 11. A dependent child is defined as an unemancipated child who lives with a caretaker and is under the age of 18 or age 18 and a full-time high school student. BEM 210, p. 2.

Petitioner applied for FIP cash assistance. When he did so, the Department was required to determine the EDG makeup. Petitioner provided ample evidence that the child met the definition of a dependent child who lived with Petitioner. Thus, the child is a mandatory EDG member. Likewise, Petitioner provided compelling evidence that he qualified as a primary caretaker of the child. At the very least, the Department was required to resolve the question. Instead, the Department denied Petitioner’s application based on the fact that Petitioner’s child was a member of the child’s mother’s FAP group.

Clearly, based on applicable policy, that was an invalid basis to deny Petitioner’s FIP cash assistance application. In fact, the statement that “You can’t have a child on 2 different cases” is directly contradicted by BEM 210, which states that “it is possible to have a different primary caretaker for different programs.” Petitioner’s eligibility for FIP cash assistance is not dependent upon whether or not the child was found to be a member of [REDACTED] FAP group. Additionally, even if a primary caretaker has to be consistent across all programs, Petitioner submitted sufficient information to trigger the Department’s obligation to resolve the purported dispute regarding the issue. BEM 210,

pp. 11-12. Petitioner does not have an obligation to somehow convince “Mom...to close her FAp and medical case” before Petitioner gained eligibility. Rather, the Department must make a determination whether Petitioner qualifies as a primary caretaker and is entitled to FIP cash assistance benefits based on the information it gathers.

DECISION AND ORDER

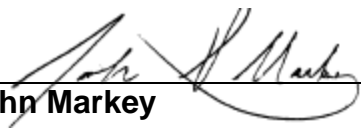
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with its policies and the applicable law when it issued its October 10, 2018, Notice of Case Action denying Petitioner’s application for FIP cash assistance.

IT IS ORDERED 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. The Department shall reregister Petitioner’s application for FIP cash assistance;
2. The Department shall determine Petitioner’s FIP cash assistance eligibility as of October 1, 2018, ongoing, pursuant to Department policy;
3. If eligible, the Department shall provide Petitioner with FIP cash assistance he is entitled to receive as of October 1, 2018;
4. The Department shall provide Petitioner with written notice of its determinations.

JM/hb



John Markey
Administrative Law Judge
for Robert Gordon, Acting 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

Lindsay Miller
125 E. Union St 7th Floor
Flint, MI 48502

Genesee County (Union), DHHS

BSC2 via electronic mail

B. Cabanaw via electronic mail

G. Vail via electronic mail

Petitioner

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