



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 22, 2019
MAHS Docket No.: 19-000661
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 March 13, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearings Facilitator.

ISSUE

Did the Department properly determine Petitioner's eligibility 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. On November 23, 2018, two children were removed from the home of Petitioner's sister and placed into the care of Petitioner pursuant to a Child Protective Services (CPS) order.
2. On [REDACTED] 2018, Petitioner applied for FIP benefits from the Department in person. Accompanying Petitioner to the Department office to fill out the application were the two children that had been placed in Petitioner's care. Petitioner asserted on the application that those children were in her care.
3. The Department failed to remove the two children from Petitioner's sister's case until the end of December 2018. This caused the sister to receive the FIP benefits

for December 2018 and January 2019 and Petitioner to be denied for those same time periods.

4. Sometime later, the Department provided Petitioner with a notice informing her that she was eligible for FIP benefits, starting in February 2019.
5. On [REDACTED], 2019, Petitioner submitted a request for hearing objecting to the Department's action in this case.

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 had two children placed in her care on November 23, 2018. On December 6, 2018, Petitioner submitted to the Department an application for FIP benefits covering those two children. The two children accompanied Petitioner to the Department office when she filed the application. At that time, the mother of those two children (Petitioner's sister) had an open FIP case with the Department involving those children. On December 19, 2018, the Department received what it considered to be a change report informing the Department that the children were no longer in the mother's home. The Department then processed the change in January 2019, causing the change to go into effect in February 2019. Thus, during the entire months of December 2018 and January 2019, FIP benefits for the two children were issued to the mother who did not have custody and denied to Petitioner, who had custody the entirety of both months.

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.

When Petitioner submitted the [REDACTED], 2018, FIP application, the Department was required to determine the EDG makeup. Petitioner provided ample evidence that each of the children met the definition of a dependent child who lived with Petitioner. Thus, each child is a mandatory EDG member. Likewise, Petitioner provided compelling evidence that she 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 children were members of the child's mother's open FIP case.

Clearly, based on applicable policy, that was an invalid basis to deny Petitioner's FIP cash assistance application. Petitioner submitted sufficient information to trigger the Department's obligation to resolve the purported dispute regarding the issue. BEM 210, pp. 11-12. 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. At the hearing, the Department representative conceded that it should have at the very least investigated the matter further at the time of application and that based upon her review of the case, the Department improperly determined Petitioner's eligibility for FIP benefits.

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 processed Petitioner's [REDACTED], 2018, FIP application.

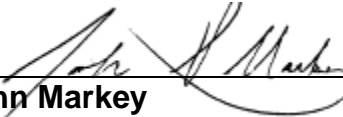
IT IS ORDERED the Department's decision is **REVERSED**.

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 from the time of application, ongoing, pursuant to Department policy;

3. If eligible, the Department shall provide Petitioner with FIP cash assistance she is entitled to receive from the date of application, including any supplements that may be due;
4. The Department shall provide Petitioner with written notice of its determinations.

JM/cg



John Markey
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

Via Email:

MDHHS-Wayne-31-Hearings
B. Sanborn
B. Cabanaw
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

██████████
████████████████████
████████████████████