



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: April 15, 2019
MAHS Docket No.: 19-001951
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 April 10, 2019, from Detroit, Michigan. Petitioner was present with her mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Sandra Kahill, Family Independence Specialist.

ISSUE

Did the Department properly close and reinstate Petitioner's 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. On November 20, 2018, Petitioner submitted an application for FIP benefits.
2. On November 26, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her bank account (Exhibit B).
3. On December 11, 2018, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FIP application was denied (Exhibit C).
4. On December 18, 2018, Petitioner submitted verification of her bank account.
5. On January 8, 2019, Petitioner submitted a Request for Hearing to the Department (Exhibit F).

6. On January 8, 2019, Petitioner signed a Hearing Request Withdrawal In-Person form (Exhibit G).
7. On February 5, 2019, the Department sent Petitioner a NOCA informing her that she was not eligible for FIP benefits for the period of December 16, 2018 through January 31, 2019, but effective February 1, 2019, ongoing, she was eligible for \$█ per month in FIP benefits (Exhibit A).
8. On February 22, 2019, Petitioner submitted a second request for hearing.

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 submitted a request for hearing disputing the Department's determination that she was not eligible for FIP benefits during the period of December 16, 2018 through January 31, 2019. Petitioner had previously submitted a request for hearing on January 8, 2019, regarding the Department's December 11, 2018 NOCA, denying her application for FIP benefits. On January 8, 2019, Petitioner signed a DHS-18M, Hearing Request Withdrawal In-Person form.

At any time during a meaningful prehearing conference, the client or Authorized Hearing Representative (AHR) may chose to withdraw his/her request for hearing. BAM 600 (October 2018, p. 29. If a client chooses to withdraw his/her hearing request at the prehearing conference at the Department office, the Department will use the DHS-18M, Hearing Request Withdrawal In-Person form. BAM 600, p. 29. The Department will close out the request for hearing and take no further action. BAM 600, p. 29. The DHS-18M form is not sent to the Michigan Administrative Hearing System (MAHS). BAM 600, p. 29. The Department is not to seek a withdrawal based on an action that will be take in the future. BAM 600, p. 28.

Petitioner testified that she signed the withdrawal request because she was notified by a Department worker that her FIP benefit case would be reinstated. Per policy, the Department is not to seek a withdrawal based on a future action. Additionally, policy does not preclude a client from submitting a second request for hearing regarding the

same issue, so long as the request is timely. Therefore, Petitioner's previous withdrawal does not prevent the undersigned ALJ from addressing the issue.

The Department testified that Petitioner submitted an application for FIP benefits on November 20, 2018. The Department sent Petitioner a VCL requesting verification of her bank account on November 26, 2018. Proofs were due on December 6, 2018.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FIP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department testified Petitioner did not submit verification of her bank account by the due date. As a result, the Department sent Petitioner a NOCA on December 11, 2018, informing her that she was not eligible for FIP benefits effective December 16, 2018, ongoing.

The Department stated that Petitioner submitted the required verifications on December 18, 2018. The Department testified that Petitioner's FIP benefit case was reinstated. The Department sent Petitioner a NOCA on February 5, 2019, approving her for FIP benefits effective February 1, 2019, ongoing. When asked why Petitioner was not approved for FIP benefits as of December 16, 2018, the Department testified that it committed an error when reinstating Petitioner's FIP benefit case. The Department stated that Petitioner submitted an application for State Emergency Relief (SER) on January 9, 2019. The individual that testified on behalf of the Department surmised that when Petitioner's FIP benefit case was reinstated, the FIP application date was confused with the SER application date, resulting in Petitioner's FIP eligibility begin date of February 1, 2019.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (January 2018), p. 2. Negative actions must be deleted in some situations. BAM 220, p. 13. One such situation is when the requirement is met before the negative action effective date. BAM 220, p. 13. The Department will enter the information the client provided to meet the requirement that caused the negative action into the system.

BAM 220, p. 13. The Department will then take the additional following actions: (i) reactive the program(s); and (ii) run eligibility and certify the results. BAM 220, p. 13. The negative action date is the day after the timely hearing request date on the notice of case action. BAM 220, p. 12. A timely hearing request is a request received within 10 days of the date the notice of case action was issued. BAM 600 (January 2018), p. 25. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600, p. 25.

The Department testified that Petitioner submitted the proper verifications on December 18, 2019. According to the NOCA from December 11, 2018, the timely hearing request date was December 26, 2018. Therefore, Petitioner met the requirement prior to the negative action date. Thus, the Department erred when it reinstated Petitioner's FIP benefit case as of February 1, 2019, and not December 16, 2018.

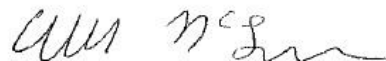
DECISION AND ORDER

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 Department policy when it reinstated 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 16, 2018, ongoing;
2. If Petitioner is eligible for FIP benefits, issue supplements she is entitled to receive as of December 16, 2018; and
3. Notify Petitioner of its decision in writing.



EM/

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 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

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

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