



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 26, 2019
MOAHR Docket No.: 19-006386
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 July 24, 2019, from Detroit, Michigan. The Petitioner was self-represented and had [REDACTED], a hospice social worker for Petitioner's son appear for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits 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. On March 8, 2019, the Department issued a DHS-54E Medical Needs form to Petitioner.
2. On April 8, 2019, the Department received Petitioner's completed DHS-54E Medical Needs form which indicated that Petitioner is required to provide around the clock care for her disabled child.

3. On the same day, the Department issued a Notice of Case Action to Petitioner informing her that her FIP case would close effective May 1, 2019 because she had exceeded the federal time limits for receipt of program benefits.
4. On June 10, 2019, the Department received Petitioner's request for hearing disputing the closure of her FIP benefits 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's FIP case was closed because she had reached the maximum federal time limit for receipt of FIP benefits and was no longer receiving an exemption from the time limit requirement. The FIP is a program which is funded primarily by the Temporary Assistance to Needy Families (TANF) program, a program created and monitored by the federal government. BEM 234 (July 2013), p. 1. TANF has a 60-month lifetime limit on assistance for adult-headed families. *Id.* Each month an individual receives federally funded FIP, the individual receives a count of one month. BEM 234, p. 2. A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. *Id.* Since FIP is also funded by State funds and not exclusively by Federal funds, a State FIP lifetime limit is also applied. BEM 234, p. 4. The State lifetime limit is 48 months. *Id.* Each month an individual receives FIP benefits while in Michigan is counted towards the limit, regardless of the funding source. *Id.* A family is ineligible for FIP when a mandatory group member in the program group reaches the 48-month state time limit. *Id.*

Michigan provides an exception to the federal 60-month time limit and will state-fund the FIP group for individuals that met the following criteria on January 9, 2013

- An approved/active ongoing FIP group **and**
 - Who was exempt from participating in the PATH program for Domestic Violence.
 - Age 65 or older.
 - Establishing incapacity.

- Incapacitated more than 90 days.
- Care of a spouse with disabilities.
- Care of a child with disabilities.

BEM 234, p. 2. The exception continues so long as the individual's ongoing FIP group reaches 60 TANF federal months **and** the individual remains in one of the above employment deferral reasons in which case the group will become state funded after the 60th month, or so long as the individual, at application, is approved as any of the above employment deferral reasons in which case the group again will be state funded. *Id.* The exception ends when one of the above individuals no longer qualifies for one of the above employment deferral reasons or they no longer meet other standard eligibility criteria for FIP. *Id.* The FIP case will close or the application will be denied. *Id.*

In this case, the Department does not dispute that Petitioner must provide around the clock care for her disabled child. Despite the parties' agreement that Petitioner must care for her disabled child, the Department still closed Petitioner's case after application of the 60-month federal time limit. Policy provides that when an individual with an approved or active FIP case is eligible for an exception to the federal 60-month time limit, the State of Michigan will fund the FIP group until the group otherwise loses its FIP eligibility. The Department could not explain why the exception was not applied in Petitioner's case especially since she was previously eligible for the exception. Since all evidence suggests that Petitioner was eligible for the exception to the federal time limit, the Department has not met its burden of proof.

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 case due to Petitioner exceeding the federal time limit.

DECISION AND ORDER

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. Reinstate Petitioner's FIP case effective May 1, 2019;
2. Redetermine her FIP eligibility with consideration of the submitted Form 54-E Medical Needs and the policies discussed above;

3. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
4. Notify Petitioner in writing of its decision.



AM/

Amanda M. T. Marler

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc:

[REDACTED]
[REDACTED]