



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: August 9, 2019
MOAHR Docket No.: 19-006779
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 August 8, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Gregory Folsom, Hearings Facilitator. During the hearing, a 50-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-50.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) cash assistance case, effective July 1, 2019?

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 [REDACTED] 2019, Petitioner submitted an application for FIP cash assistance to the Department. On the application, Petitioner indicated that her household consisted of herself and her two grandchildren, who all lived at Petitioner's house on [REDACTED]. Exhibit A, pp. 4-11.
2. On May 13, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for FIP benefits was approved, effective June 1, 2019, ongoing. Exhibit A, pp. 28-31.

3. At some point in May 2019, the Department's Office of Inspector General (OIG) received a referral for investigation concerning Petitioner's FIP case. Petitioner's daughter, [REDACTED], who is the mother of the two children residing with Petitioner, had an open Food Assistance Program (FAP) benefits case with the Department at the same address where Petitioner resided on [REDACTED].
4. On May 30, 2019, the Department's OIG conducted an investigation and produced a report. During the investigation, Petitioner informed the agent that [REDACTED] had not lived at the [REDACTED] address since 2017 and was presently living at an address on [REDACTED]. The conclusion was that "The Agency was not able to obtain any evidence showing that [REDACTED] was not residing with this client at the address reported... FIP denied on 5/30/2019, the HOH/grandmother is not eligible as an ineligible grantee due to the mother of the children living in the home." Exhibit A, pp. 38-39.
5. On May 30, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FIP case was closing, effective July 1, 2019, "due to you not being eligible as an ineligible grantee. There is no evidence indicating that the children's mother is not living with you at your address." Exhibit A, pp. 40-43.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FIP 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 applied for FIP benefits as an ineligible grantee after her two grandchildren came to live with her at her home on [REDACTED]. Because the Department's record indicated that Petitioner's daughter and mother of the two grandchildren, [REDACTED], also lived at that address on [REDACTED], the Department began an investigation into the matter. At the conclusion of that investigation, the Department determined that Petitioner failed to prove that [REDACTED] did not live at the [REDACTED] address. As a result of the conclusion, the Department closed Petitioner's FIP case, effective July 1, 2019.

Petitioner had custody of her grandchildren. If ██████ lived in the home, she would be a mandatory group member with respect to her two children and would be the caretaker and grantee. BEM 210 (April 2019), p. 5; BEM 515 (October 2018), p. 2. Effectively, a finding that ██████ was living in the home would result in the closure of Petitioner's FIP case. However, due to Petitioner's relationship status to her grandchildren, Petitioner could have a FIP case and would not be included in the FIP group, so long as ██████ did not live with her. BEM 515, p. 2. Accordingly, Petitioner's eligibility is contingent upon ██████ not living with Petitioner at the ██████ house.

Petitioner adamantly and consistently has denied that ██████ lives at the ██████ home. However, the Department's OIG concluded otherwise after an investigation into the matter. Petitioner submitted the June 20, 2019 request for hearing to challenge the Department's findings.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

The Department did not meet its burden of proof in this matter. The OIG investigation into the matter was woefully insufficient to support the conclusion that ██████ lived at the ██████ home. Basically, the investigation started because ██████ had an open FAP case from that address and consisted of only a conversation with Petitioner wherein Petitioner provided the OIG agent with an address where ██████ was actually living. The agent apparently did not even attempt to visit the address provided and instead concluded that "The Agent was not able to obtain any evidence showing that ██████ was not residing with this client at the address reported." Besides placing the burden of proof on the wrong party, that conclusion seemingly ignored the evidence collected: a statement from an eyewitness with personal knowledge that ██████ lived at a different address. Seemingly, before concluding that no evidence existed that ██████ lived elsewhere, it would have been prudent to actually look into the evidence provided by visiting the address where ██████ was alleged to live. The Department's evidence falls well short of substantiating its conclusion that ██████ lived at the ██████ house with Petitioner. As that conclusion was the only reason that it took the contested action, that action must be reversed.

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 closed Petitioner's FIP case, effective July 1, 2019.


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 back to July 1, 2019, ongoing;
2. If Petitioner is eligible for additional benefits she did not receive as a result of the improper closure, promptly issue to Petitioner a supplement;
3. Provide continued benefits that Petitioner is eligible to receive pursuant to law and Department policy;
4. If the Department believes that there has been a change in circumstances that would negatively impact Petitioner's eligibility for FIP benefits, follow Department policy in verifying attempting to verify that information; and
5. Notify Petitioner in writing of its decisions.

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 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-Genesee-Clio Rd.- Hearings
B. Sanborn
B. Cabanaw
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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