



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: June 25, 2020
MOAHR Docket No.: 20-002952
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 June 22, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit 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. Petitioner was an ongoing FIP recipient.
2. On March 31, 2020, the Department sent Petitioner a Notice of Case Action informing her that her FIP benefit case was closing effective May 1, 2020, ongoing (Exhibit A, pp. 13-18).
3. On April 16, 2020, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing FIP recipient. The Department testified that as of May 1, 2020, Petitioner had exceeded the federal FIP time limit. The Department presented Petitioner's federal FIP counter, showing that she has 60 federally funded months of FIP benefits (Exhibit A, pp. 7-11). As a result, the Department closed Petitioner's FIP benefit case.

The FIP is not an entitlement. BEM 234 (July 2013), p. 1. Temporary Assistance to Needy Families (TANF) is the federal grant that funds the majority of FIP benefits issued by the Department. BEM 234, p. 1. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits unless they are eligible for an exception to the federal time limit. BEM 234, p. 1. Each month an individual receives federally funded FIP, the individual receives a count of one month. BEM 234, p. 2. An exemption to the federal 60 month time limit exists for individuals who were, as of January 9, 2013, (1) approved/active for FIP benefits and (2) exempt from participation in the Partnership. Accountability. Training. Hope. (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2. The exemption continues as long as the individual's ongoing FIP EDG reaches 60 TANF federal months and as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. In these instances, the FIP EDG will become state funded after the 60th month. BEM 234, p. 2.

At the hearing, Petitioner testified that she is caring for a child with disabilities. Petitioner stated that her daughter was born on [REDACTED], 2012. Petitioner testified that her daughter was diagnosed with Cerebral Palsy three years later. The Department confirmed that Petitioner submitted a Medical Needs form completed by a physician in [REDACTED] 2018, stating that Petitioner's daughter has been diagnosed with Cerebral Palsy, and that Petitioner cannot work. The document also states that the disability is a lifetime disability. The Department also testified that no further requests have been made asking Petitioner to verify her daughter's disability.

There was sufficient evidence to establish that Petitioner received 60 months of federally funded FIP benefits. However, the Department closed Petitioner's FIP benefit case in error. Petitioner is caring for a child with disabilities and she qualifies for an ongoing exemption. Per policy, Petitioner's FIP benefit case should become state funded. Therefore, the Department did not act in accordance with policy when it closed Petitioner's FIP benefit case.

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 closed 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. Reinstate Petitioner's FIP benefit case effective May 1, 2020;
2. Provide Petitioner with supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/tm



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 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.

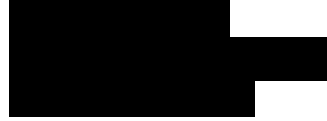
If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

LaClair Winbush
17455 Grand River
Detroit, MI 48227

Petitioner



cc: FIP: B. Sanborn
AP Specialist-Wayne County