



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: September 26, 2022
MOAHR Docket No.: 22-003638
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 September 15, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Michelle Laux, Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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 recipient of FIP benefits.
2. On or around July 21, 2022, Petitioner completed a redetermination and submitted it to the Department. On the redetermination, Petitioner reported that her household consisted of herself and three children. Petitioner reported that she was employed with a temporary ██████████ working an average of eight hours per week and receiving weekly pay of \$██████ (Exhibit A, pp. 7-12)
3. The Department asserted that Petitioner verbally reported that she started a job on August 15, 2022, at ██████████ and that she would be working 40 hours per week and paid \$█████ per hour.

4. The Department did not send Petitioner a Verification Checklist (VCL) or other request for employment verification.
5. On or around August 19, 2022, the Department sent Petitioner a Notice of Case Action, advising her that effective September 1, 2022, FIP case would be closed because the group's countable income exceeded the limit. (Exhibit A, pp. 30-34)
6. On or around August 22, 2022, Petitioner requested a hearing disputing the Department's actions with respect to the closure of her FIP case. On the hearing request, Petitioner indicated that the Department is budgeting income that she has not received. (Exhibit A, pp. 3-5)
7. After receiving Petitioner's request for hearing, Petitioner informed the Department that she was in training and her pay is prorated at \$█ per hour and she is only to be trained 20 hours per week. (Exhibit A, pp. 13-18)
8. On or around August 23, 2022, the Department sent Petitioner a DHS – 38 Employment Verification that she was instructed to complete and return by September 2, 2022, along with any pay stubs received. (Exhibit A, pp. 13,19-21)
9. On or around August 23, 2022, the Department sent Petitioner a Notice of Case Action, advising her that effective September 1, 2022, FIP case would be closed. (Exhibit A, pp. 22-25)
10. Although the Notice of Case Action does not identify a reason for intended action, the Department asserted that it recalculated Petitioner's FIP budget based on the updated income information of her training employment at \$█ per hour and 20 hours per week and determined that Petitioner was still ineligible for FIP benefits based on excess income.
11. On or around September 2, 2022, Petitioner submitted a paystub to the Department showing that she was paid \$█ for 10.12 hours of work. The Department did not present the paystub for review during the hearing; thus, the pay period and pay date were unknown.

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 order to receive FIP benefits, financial need must exist. Financial need is established, in part, when a client passes the qualifying deficit test and/or the issuance deficit test. Need is determined to exist when budgetable income is less than the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 518 (January 2020), pp. 1- 6; BEM 515 (January 2022), pp. 1-5. The FIP monthly assistance payment standards (based on eligibility determination groups (EDG) participation status and FIP certified group size) are found in RFT 210. See RFT 210 (April 2017), pp. 1-2.

In this case, Petitioner disputed the closure of her FIP case effective September 1, 2022. The Department representative testified that Petitioner's FIP case was closed because she was found to have excess income and ineligible for FIP benefits. The Department representative testified that based on Petitioner's verbal statement that she would be starting work on August 15, 2022, working 40 hours a week, and being paid \$█ per hour, it began budgeting the income and determined that Petitioner was no longer eligible for FIP benefits effective September 1, 2022. The Department testified that after receiving Petitioner's request for hearing, it recalculated Petitioner's FIP budget and again determined that even with the part-time earnings, Petitioner's household still had excess income.

At the hearing, Petitioner disputed the Department's testimony that she verbally reported full-time employment of 40 hours weekly and pay of \$█ per hour beginning August 15, 2022. Petitioner testified that she may have reported to her Michigan Works Agency caseworker that she is starting orientation on August 15, 2022, for a potential job and if she accepts the position, she will be working 10 to 36 hours weekly. Petitioner testified that she went to orientation on August 15, 2022, and had training for a few days with her last day of work being September 5, 2022. Petitioner testified that at the time the employment verification was due, she had only received one paycheck that she submitted. Petitioner pointed out that Department policy indicates that she has 10 days from the date in which she receives her first paycheck to report changes in income and employment. See BAM 105 (April 2022), pp. 10-12. Petitioner argued that the Department should not have started budgeting her income prior to her receiving her first paycheck.

A review of the Case Comments and other documentation presented during the hearing shows that the Department did not send Petitioner a VCL or other request for employment/income verification prior to including the earnings in her FIP budget. Additionally, the evidence showed that the Department did not allow Petitioner to resolve the discrepancy between the income/employment information reported on the July 2022 redetermination and that which was verbally reported in August 2022. See BAM 130; BEM 505; BAM 220. The DHS – 38 Employment Verification was not sent to Petitioner for completion until August 23, 2022 and was not due until September 2, 2022. At that point however, the Department had already issued the

August 19, 2022, and August 23, 2022, Notices of Case Action, closing Petitioner's FIP case effective September 1, 2022. Upon review, the Department improperly prospectively budgeted income that Petitioner had not yet received and that which it did not have sufficient verification of.

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 September 1, 2022.


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 September 1, 2022;
2. Issue FIP supplements to Petitioner for any benefits her household was eligible to receive but did not from September 1, 2022, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zairab A. Baydoun
Administrative Law Judge

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 Electronic Mail :

DHHS
Chelsea McCune
Macomb County DHHS Warren Dist.
27690 Van Dyke
Warren, MI 48093
**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties

BSC4
G. Vail
B. Cabanaw
MOAHR

Via First Class Mail :

Petitioner

██████████
██████████
██████████, MI ██████████