



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], MI [REDACTED]

Date Mailed: December 20, 2022
MOAHR Docket No.: 22-005300
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 12, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Yvonne Jasper, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits?

Did the Department properly close Petitioner's Food Assistance Program (FAP) 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 FAP benefits.
2. On or around [REDACTED] 2022, Petitioner submitted an application requesting FIP benefits.
3. On or around August 15, 2022, the Department denied Petitioner's [REDACTED] 2022, FIP application on the basis that she has exceeded the state and federal time limits for receipt of FIP benefits. (Exhibit A, pp. 14 – 16; Exhibit B)
4. On or around [REDACTED] 2022, Petitioner submitted an application requesting FIP benefits.

5. On or around September 7, 2022, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of her self-employment income by September 19, 2022. (Exhibit A, pp. 6-8)
6. Petitioner failed to submit the requested verification of self-employment income by the September 19, 2022, due date. (Exhibit A, pp. 14-15)
7. On or around September 22, 2022, the Department had contact with Petitioner during which she reported that she was leaving the State of Michigan and relocating to New York. The Department changed Petitioner's address to reflect a New York address. (Exhibit A, pp. 14-15)
8. On or around September 26, 2022, the Department sent Petitioner a Notice of Case Action, advising her that effective October 1, 2022, her FAP case would be closing due to a failure to return requested verifications.
 - a. The Notice of Case Action further informed Petitioner that her [REDACTED] 2022, FIP application was denied due to the children being ineligible because they were noncompliant with school attendance requirements. The Department acknowledged that the Notice of Case Action reflected an incorrect denial reason for the FIP and noted that the application was denied due to Petitioner having exceeded the state and federal time limit of receiving FIP benefits. (Exhibit A, pp.9 – 15)
9. The September 26, 2022, Notice of Case Action was mailed to Petitioner's newly updated New York mailing address.
10. On or around [REDACTED] 2022, Petitioner reapplied for FAP benefits and requested cash assistance under both the FIP and the State Disability Assistance (SDA) program.
11. On or around November 7, 2022, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and FIP cases.
12. As of the hearing date, Petitioner's [REDACTED] 2022, FAP application had been approved and her SDA application was pending review with the Disability Determination Service. On or around December 7, 2022, Petitioner's [REDACTED] 2022, FIP application was denied. Petitioner was advised that this denial will not be addressed with the current Hearing Decision, as the action did not occur until after her November 7, 2022, 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).

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), 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. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3. For FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 7-8. 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, pp. 7-8.

In this case, Petitioner requested a hearing on November 7, 2022, disputing the Department's actions with respect to her FAP case. After some inquiry, Petitioner confirmed that she disputed the closure of her FAP case effective October 1, 2022. The Department representative explained that on or around September 7, 2022, a VCL was sent to Petitioner instructing her to provide proof of her self-employment income by September 19, 2022. The Department representative testified that because Petitioner failed to submit verification of her self-employment earnings by the due date identified on the VCL, the Department issued the September 26, 2022, Notice of Case Action, advising Petitioner of the case closure. In response to the Petitioner's assertion that she did not receive notice of the case closure, the Department testified that on or around September 22, 2022, it was notified by Petitioner that she was relocating to the State of New York and reported a new mailing address, and thus, the Notice of Case Action was mailed to Petitioner's newly reported mailing address. This contact is documented in the Case Comments presented for review in Exhibit A.

While Petitioner disputed that she contacted the Department and advised of a new mailing address, Petitioner did not dispute that she failed to submit requested verification of self-employment earnings by the due date. Although Petitioner testified that during the time the verifications were being requested, she was going through medical challenges, there was no evidence that she timely submitted the requested verification of self-employment income.

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 because Petitioner failed to establish that she timely submitted verification of her self-employment income as required, the Department acted in accordance with Department policy when it closed Petitioner's FAP case.

FIP

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 disputed the denial of her FIP applications. In accordance with BAM 600 and based on Petitioner's hearing request dated November 7, 2022, this Hearing Decision will address only Petitioner's [REDACTED] 2022, and [REDACTED] 2022, FIP applications. At the hearing, the Department representative testified that although the Notice of Case Action advising Petitioner of the denial reflected an incorrect denial reason, subsequent Benefit Notices were issued advising Petitioner that the applications were denied, and she was ineligible for FIP benefits because she had reached the State and Federal time limit for receipt of FIP benefits.

The FIP benefit program 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. 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. Each month an individual receives federally funded FIP, the individual receives a count of one month. A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. BEM 234, pp. 1-2. An exception 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 exception continues 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 or the client no longer meets other standard eligibility criteria for FIP, and at that time, the FIP case will close or the application will be denied. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p. 1. Any month that an individual's FIP assistance is state funded is not a countable month towards the federal time limit count. BEM 234 at pp. 3-4 outlines the limited number of situations in which a FIP case will be state funded.

The state time limit reflects the number of remaining months an individual may receive FIP in the State of Michigan. Each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month. A family

is ineligible for FIP when a mandatory group member reaches the 48-month state time limit. The 48-month lifetime limit for State-funded FIP cases allows exemption months in which an individual does not receive a count towards the individual's 48-month lifetime limit. BEM 234, p. 3-4. Exemption months are months the individual is deferred from the Partnership, Accountability, Training Hope (PATH) program for (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability or long-term incapacity lasting longer than 90 days (including establishing incapacity); or (iv) being a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, pp. 3-4. Additionally, each month an individual serves a sanction period are months that are countable towards the state time limit. Sanction months should be counted starting October 1, 2007. Sanctioned months that count towards the individual time limit are employment and training noncompliance; Family Automated Screening Tool (FAST) noncompliance; Family Self-Sufficiency Plan (FSSP) noncompliance; and Family Strengthening noncompliance. BEM 234, p. 6. Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets any exemption criteria. BEM 234, p. 7.

At the hearing, the Department provided a Federal TANF Time Limit showing each of the countable months Petitioner received FIP benefits. (Exhibit A, pp. 26-28; Exhibit B) The Department testified that it relied on this list to establish that 108 countable months of FIP benefits were issued to Petitioner during the relevant time period. Additionally, the Department provided a Michigan FIP Time Limit counter/summary showing each of the countable months in which Petitioner received FIP benefits. (Exhibit B). The Department testified that it relied on this list to establish that a total of 48 countable months of FIP benefits were issued to Petitioner. (Exhibit A, pp. 26-28; Exhibit B). beginning in April 2011 and continuing through June 2019.

Petitioner disputed that she reached the FIP time limits. Petitioner testified that she has received FIP benefits starting in 2002 or 2003 and continued to receive them off and on for a few years. Petitioner asserted that she stopped receiving FIP benefits in 2010. A review of the Federal TANF and Michigan FIP Time Limit counter summaries presented for review showed that Petitioner's federal countable months began in January 2002 and her state countable months began in October 2007. Petitioner continued to receive FIP benefits consistently until September 2011. (Exhibit B). Petitioner confirmed that she did not have an active FIP case as of January 9, 2013, and thus was ineligible for an exception to the federal time limit. There was no evidence to indicate that Petitioner was eligible for any of the exemption criteria to the State time limit identified above, as the documents presented indicate that Petitioner was a mandatory work participant.

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 acted in accordance with Department policy when it denied Petitioner's FIP applications, as Petitioner reached the Federal and State time limits.

DECISION AND ORDER

Accordingly, the Department's FAP and FIP decisions are **AFFIRMED**.

ZB/ml



Zainab 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
Tara Roland 82-17
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Interested Parties

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Via First Class Mail :

Petitioner

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