



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: April 7, 2023
MOAHR Docket No.: 22-006349
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 9, 2023, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. [REDACTED] Landlord, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Krista Hainey, Family Independence Manager (FIM).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-19 and Petitioner's additional documentation was admitted as Exhibit 1, pp. 1-13.

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 receiving FIP benefits.
2. Petitioner was on a deferral from participation in work related activities, Partnership. Accountability. Training. Hope. (PATH) program, based on disability.
3. Petitioner's annual review for her benefit cases is generally in August and this year it was completed by August 31, 2022. (Petitioner Testimony)

4. On September 19, 2022, a Notice of Case Action was issued to Petitioner, in part stating FIP would be increasing effective October 1, 2022 and ongoing. (Exhibit 1, pp. 4-5)
5. Petitioner's case was listed on a deferral report as updated medical verification was needed. (Exhibit A, pp. 1 and 5)
6. On October 14, 2022, a Verification Checklist was issued to Petitioner requesting verifications of disability, vehicle value, and checking account by an October 24, 2022, due date. (Exhibit A, pp. 6-10)
7. Petitioner called the Department and left messages asking to clarify if there had been a system glitch because she had just completed the annual review and received the ongoing approval notice a few weeks before the Verification Checklist was issued. (Petitioner Testimony)
8. An October 18, 2022 case comment documents that an appointment for Petitioner's case was on the worker's calendar for that date. The worker noted there was no application, review, or change report or other reason noted for the appointment that date. The next appointment was scheduled for November 1, 2022 at 9:00 am for a review. (Exhibit A, p. 5)
9. Petitioner did not receive a call back from the Department prior to October 28, 2022. (Petitioner Testimony)
10. An October 28, 2022 case comment indicated Petitioner was at 59 months for the federal limit for the program. (Exhibit A, p. 5)
11. On October 28, 2022, a Notice of Case Action was issued to Petitioner stating the FIP case would close effective December 1, 2022 because she had reached the 60 month federal limit for the program. (Exhibit A, pp. 11-15)
12. On October 28, 2022, the worker spoke with Petitioner by phone and indicated it was too late to provide the needed information. Petitioner stated she did not receive the Medical Needs form with the Verification Checklist and requested for another form to be sent to her. The worker refused to send another form to Petitioner because it was too late. (Petitioner Testimony)
13. On October 28, 2022, Petitioner filed a hearing request contesting the closure. (Exhibit A, pp. 18-19)

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.

Federal Countable Month

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.

Federal Time Limit Exception

Michigan will provide an exception to the federal 60 month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

- An approved/active ongoing FIP EDG **and**
 - Who was exempt from participation in the Partnership. Accountability. Training. Hope. (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.

The exception continues as long as:

- The individual's ongoing FIP EDG reaches 60 TANF federal months and the individual remains one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.

BEM 234, July 1, 2013, p. 2.

In general, verification is to be obtained when: required by policy; required as a local office option; and when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application and at redetermination as well as for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available

information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2022, pp. 1-3.

For FIP, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Verifications are considered timely if received by the date they are due. If the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the specialist may grant an extension to the VCL due date. The Department is to send a negative action notice when the client indicates 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, p. 7.

In this case, the Department indicated Petitioner's case was listed on a deferral report as updated medical verification was needed. (Exhibit A, pp. 1 and 5; FIM Testimony). On October 14, 2022, a Verification Checklist was issued to Petitioner requesting verifications of disability, vehicle value, and checking account by an October 24, 2022, due date. (Exhibit A, pp. 6-10). When the needed medical verification was not returned by the due date, the deferral from PATH was ended. (FIM Testimony).

An October 28, 2022 case comment indicated Petitioner was at 59 months for the federal limit for the program. (Exhibit A, p. 5). Accordingly, on October 28, 2022, a Notice of Case Action was issued to Petitioner stating the FIP case would close effective December 1, 2022 because she had reached the 60 month federal limit for the program. (Exhibit A, pp. 11-15).

Petitioner explained that she called the Department and left messages asking to clarify if there had been a system glitch because she had just completed the annual review and received the ongoing approval notice a few weeks before the October 14, 2022 Verification Checklist was issued. Petitioner did not receive a call back from the Department prior to October 28, 2022. (Petitioner Testimony).

Petitioner's testimony that she called and left messages prior to the October 24, 2018 due date to provide the verifications is consistent with a case comment. Specifically, an October 18, 2022 case comment documents that an appointment for Petitioner's case was on the worker's calendar for that date. The worker noted there was no application, review, or change report or other reason noted for the appointment that date. The next appointment was scheduled for November 1, 2022 at 9:00 am for a review. (Exhibit A, p. 5). Accordingly, it appears that the October 18, 2022 appointment was possibly scheduled in response to the messages Petitioner left, but because the worker did not see why the appointment was scheduled, the worker did not attempt to contact Petitioner that day.

Further, Petitioner testified that on October 28, 2022, she spoke with the worker by phone, who indicated it was too late to provide the needed information. Petitioner stated she did not receive the Medical Needs form with the Verification Checklist and

requested for another form to be sent to her. The worker refused to send another form to Petitioner because it was too late. (Petitioner Testimony).

Petitioner's testimony that she attempted to contact the Department in response to the Verification Checklist prior to the due date and did not receive a response from the Department until after the due date had passed, is found credible. Had Petitioner received a response, she would have been able to confirm that additional verifications were actually needed and timely requested to have a medical needs form sent to her.

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.

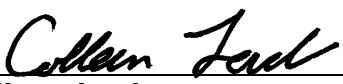
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for FIP as of the December 1, 2022 effective date in accordance with Department policy, to include allowing Petitioner the opportunity to provide any needed verifications.

CL/ml



Colleen Lack
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
Cindy Tomczak
Berrien County DHHS
401 Eighth Street
Benton Harbor, MI 49023
MDHHS-Berrien-
Hearings@michigan.gov

Interested Parties
BSC3
B Sanborn
MOAHR

Via First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]