



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: July 5, 2023
MOAHR Docket No.: 23-003073
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on July 3, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Cindy Okoniewski and Susie Perez.

ISSUE

Did the Department of Health and Human Services (Department) properly deny cash assistance?

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 ██████████ 2022, the Department received Petitioner's request for a hearing protesting the closure of her cash assistance.
2. On April 7, 2023, Michigan Office of Administrative Hearings and Rules (MOAHR) issued a Hearing Decision ordering the Department to redetermine Petitioner's eligibility for ongoing cash assistance as of December 1, 2022.
3. Petitioner has received 13 months of state funded cash assistance and 60 months of federal funded cash assistance.
4. On May 25, 2023, the Department received another hearing requesting protesting the denial of cash assistance.

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 through 679c. The Department administers FIP pursuant to 45 CFR 233 through 261, MCL 400.10, the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1 *et seq.* The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 of the Social Welfare Act, MCL 400.1. *et seq.*, and Mich Admin Code, R 400.3151 through 400.3180.

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 Family Independence Agency) 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 to .3131. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The FIP benefit program is not an entitlement. Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. Effective October 1, 2011, BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for State-funded FIP cases for which no months were exempt. Department of Human Services Bridges Eligibility Manual (BEM) 234 (July 1, 2013), p 1.

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. 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. FIP benefits received prior to October 1, 2006, are not State-funded. BEM 234, pp 3-4.

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 an exemption criteria. BEM 234, p 7.

The Department closed Petitioner's cash assistance on the basis that she had exceeded the 60-month limit to remain eligible for cash assistance. Petitioner requested a hearing protesting the closure of cash assistance, and on April 7, 2023, MOAHR ordered the Department to redetermine Petitioner's eligibility for cash assistance as of December 1, 2022.

The Department argues that Petitioner remains ineligible for cash assistance because she had exceeded the 60-month limit for receiving cash assistance.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2021), pp 6-7.

No evidence was presented on the record that the Department issued a DHS-1605 Notice of Case Action, notifying Petitioner that that she was not eligible for cash assistance after being ordered to redetermine her eligibility on April 7, 2023, as directed by BAM 220, p 22. Therefore, Petitioner is entitled to a hearing based on a timely hearing request protesting the denial of cash assistance and a failure to determine eligibility within the standard of promptness.

The Department failed to present evidence to establish that Petitioner is not eligible for state funded cash assistance as of December 1, 2022, and ongoing.

The Department failed to offer evidence that Petitioner was given a reasonable opportunity to provide the Department with evidence supporting her eligibility for state funded cash assistance after April 7, 2023.

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 determined that Petitioner was not eligible for cash assistance effective December 1, 2023, and ongoing.

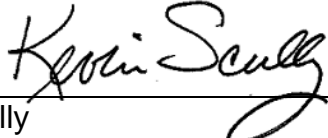
DECISION AND ORDER

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. Initiate a determination of the Petitioner's eligibility for cash assistance effective December 1, 2022, and ongoing.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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
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401 Eighth Street
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Interested Parties
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