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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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Date Mailed: February 1, 2024
MOAHR Docket No.: 23-006980
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on January 3, 2024, via teleconference. Petitioner appeared and represented herself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS offered documents into evidence, which were admitted as MDHHS Exhibit A, pp. 1-17.

ISSUE

Did MDHHS properly deny Petitioner's application for Family Independence Program (FIP/cash assistance) benefits?

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 on behalf of herself and her children, including her disabled son, ██████████ (Son).
2. As of June 2023, Petitioner had 102 countable months of FIP (Exhibit A, p. 16). Petitioner qualified for an exemption from the FIP time limits because she was caring for Son.
3. In July 2023, MDHHS determined that Petitioner was no longer qualified for an exemption on the basis of caring for a disabled child (Exhibit A, p. 12). The

decision was based on Son turning ■ in ■ 2023 and the fact that he was no longer attending high school on a full-time basis (Exhibit A, p. 14).

4. On August 17, 2023, Administrative Law Judge (ALJ) Aaron McClintic issued a hearing decision in MOAHR Docket No. 23-003975 finding that MDHHS failed to properly process Petitioner's FIP redetermination and ordered MDHHS to reinstate Petitioner's FIP case and issue a supplement for any missed FIP benefits. A review of MOAHR records shows that on August 23, 2023, MDHHS sent MOAHR written certification that the actions ordered by the judge were completed and it submitted a Help Desk Ticket to reopen Petitioner's FIP case. MDHHS then confirmed with MOAHR that it determined that Petitioner was ineligible for FIP due to Petitioner's disabled child turning ■ and not being enrolled in high school.
5. On ■ 2023, Petitioner applied for FIP benefits (Exhibit A, p. 1).
6. On October 10, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that she was denied for FIP/cash assistance, effective November 1, 2023 ongoing (Exhibit A, p. 7). The reasons provided for the denial included that Son was an adult and Petitioner had reached the lifetime limit for FIP benefits (Exhibit A, p. 8).
7. On October 18, 2023, Petitioner filed a Request for Hearing to dispute the denial of her FIP application (Exhibit A, pp. 3-5).

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. MDHHS 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, MDHHS denied Petitioner's application for FIP because it determined that she reached the lifetime limit for FIP and did not qualify for an exemption from the time limits. Petitioner disputed MDHHS' determination.

FIP is a cash assistance program designed to help individuals and families become self-sufficient. BEM 209 (January 2022), p. 1. FIP is not an entitlement program. 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 MDHHS. 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 exemption from 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 Eligibility Determination Group (EDG) reaches the 60-month federal time limit. BEM 234, pp. 1-2.

An exemption to the 60-month federal 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 due to 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 the individual remains eligible for one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month. The exemption also continues as long as the individual, at application, is approved as any of the above employment deferral reasons. In these instances, the FIP EDG will be state funded. The exemption ends once one the individual no longer qualifies 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, pp. 3-4. The state time limit reflects the number of remaining months an individual may receive FIP in the state of Michigan. Michigan has a 48-month lifetime limit. *Id.* This 48-month lifetime limit is more restrictive than the federal 60-month lifetime limit. *Id.* Each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month. *Id.* A family is ineligible for FIP when a mandatory group member in the program group reaches the 48-month state time limit. *Id.* The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. *Id.* However, the federal time limit continues, unless the exemption is state funded. *Id.*

Effective Oct. 1, 2011, state-funded exemption months are months the individual is deferred from PATH for (i) domestic violence; (ii) age (65 and older); (iii) a verified disability or long-term incapacity lasting longer than 90 days (note: this includes the deferral reason of establishing incapacity); (iv) a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, p. 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 any exemption criteria. BEM 234, p. 7.

Here, MDHHS terminated Petitioner's FIP case because it determined that she no longer qualified for a deferral reason. MDHHS' determination was based on evidence that Son turned ■ and was no longer attending high school. Per BEM 210, a dependent child is an unemancipated child who lives with a caretaker and is under age 18, or is age 18 and a full-time high school student (Exhibit A, p. 12). BEM 210 (July

2021), p. 2. Subsequently, Petitioner reapplied for FIP and her application was denied due to exceeding the FIP time limits and not qualifying for an exemption. MDHHS introduced evidence that Petitioner received 102 countable months of FIP (Exhibit A, p. 16).

At the hearing, Petitioner testified that she should qualify for a FIP on the basis of caring for a child with disabilities, her ongoing medical conditions, and domestic violence. Petitioner credibly testified that she is visually impaired and suffers from other medical conditions, which prevent her from working. She also testified that she and her children are the victims of domestic violence. Petitioner asserted that she informed MDHHS of these factors, but MDHHS did not fully consider the totality of her circumstances when determining whether she qualified for an exemption from the FIP time limits. Petitioner did not dispute that Son was age [REDACTED] and not attending high school full time.

Although policy provides that 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), the undersigned ALJ finds that authority exists to address MDHHS' determination that Petitioner did not qualify for an exemption prior to closing her FIP case, as described in more detail below.

Upon certification of eligibility results, MDHHS automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2023), p. 2. However, written notice is not required to implement a hearing decision. *Id.* The hearing decision in Docket No. 23-003975 ordered MDHHS to reinstate Petitioner's FIP case and issue a supplement for any missed FIP payments. Actions taken after the reinstatement of Petitioner's FIP case required MDHHS to send Petitioner a notice of case action. After reinstating Petitioner's case, MDHHS determined that she no longer qualified for the deferral based on caring for Son. No evidence was presented that MDHHS sent Petitioner a notice of this determination and it is unclear from the record when MDHHS closed Petitioner's FIP case after the reinstatement. Given that it is unclear when or if notice was sent to Petitioner regarding the FIP closure, there is no evidence that the undersigned ALJ is barred from addressing the closure of the FIP case due to timeliness or some other jurisdictional issue.

Based on the evidence presented, MDHHS properly determined that Petitioner was not eligible for an exemption based on caring for a disabled child. It was undisputed at the hearing that Son was [REDACTED] years old and no longer attending high school full time. However, Petitioner reported other circumstances to MDHHS that, if verified, could have resulted in an exemption, and deferred the case closure. Federal and state-funded exemptions exist due to medical incapacity, including for the purpose of establishing incapacity, and for domestic violence. BEM 234, pp. 2-4. When an eligibility factor is unclear or in dispute, MDHHS is required to request additional verification from the client. BAM 130 (October 2023), p. 1. There is no evidence that it requested verification of Petitioner's alleged incapacity or the domestic violence situation. After MDHHS closed Petitioner's FIP case, she reapplied and MDHHS denied that application based

on the prior determination that she was no longer eligible for an exemption. The initial closure was in error, because MDHHS failed to verify whether Petitioner qualified for an exemption based on her other circumstances.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for FIP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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 from the effective date of the closure, on or about July 1, 2023;
2. Redetermine Petitioner's eligibility for FIP from the date of closure ongoing, requesting additional information about potential exemptions from the state and federal time limits, as necessary;
3. Issue supplemental FIP payments to Petitioner for any FIP benefits that she was eligible to receive, but did not, from the date of closure ongoing; and
4. Notify Petitioner in writing of its decision.



Linda Jordan
Administrative Law Judge

LJ/tm

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.

