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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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ACTING DIRECTOR

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Date Mailed: January 30, 2024
MOAHR Docket No.: 23-008408
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 29, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) failed to appear for the hearing.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) 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 FIP recipient.
2. The Department closed Petitioner's FIP case for meeting the allotted 60 months' time limit for receipt of FIP benefits.
3. Petitioner's daughter, age █, is disabled and receiving Social Security Administration (SSA) benefits with a diagnosis for autism.
4. Petitioner's son, age █, is submitting an application for SSA benefits after a diagnosis of autism and oppositional defiant disorder.

5. Petitioner is applying for disability through SSA due to ongoing medical issues causing her to lose more than 180 pounds, most recently losing 35 pounds in three months.
6. On November 13, 2023, the Department received Petitioner's request for hearing disputing the Department's closure of her FIP case.

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 this case, Petitioner disputes the closure of her FIP benefits due to exceeding the federal time limit and believes that the Department's count of Petitioner's past receipt of benefits is inaccurate because Petitioner has two disabled children and is the sole caregiver of her children.

FIP is a program which is funded primarily by the Temporary Assistance to Needy Families (TANF) program, a program created and monitored by the federal government. BEM 234 (July 2013), p. 1. TANF has a 60-month lifetime limit on assistance for adult-headed families beginning October 1, 1996. *Id.* Each month an individual receives federally funded FIP, the individual receives a count of one month. BEM 234, p. 2. A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. *Id.* Since FIP is also funded by State funds and not exclusively by Federal funds, a State FIP lifetime limit is also applied. BEM 234, p. 4. The State lifetime limit is 48 months effective October 1, 1996. *Id.* Each month an individual receives FIP benefits while in Michigan is counted towards the limit, regardless of the funding source. *Id.* A family is ineligible for FIP when a mandatory group member in the program group reaches the 48-month state time limit. *Id.* Any month that is state funded is not a countable month toward the federal time limit count. BEM 234, p. 3. However, months which are federally funded are countable toward the state counter unless a deferral or exemption applies. *Id.*

Michigan provides an exception to the federal 60-month time limit and will state-fund the FIP group for individuals that met the following criteria on January 9, 2013

- An approved/active ongoing FIP group **and**
 - Who was exempt from participating 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.

BEM 234, p. 2. The exception continues so long as the individual's ongoing FIP group reaches 60 TANF federal months **and** the individual remains in one of the above employment deferral reasons. If the individual qualifies under a deferral reason, the group will become state funded after the 60th month, or so long as the individual, at application, is approved as any of the above employment deferral reasons. *Id.* The exception ends and the case is closed, or the application is denied when one of the above individuals no longer qualifies for one of the above employment deferral reasons or they no longer meet other standard eligibility criteria for FIP. *Id.*

In addition, the state has chosen to state fund cases with one or more of the following criteria in order to meet its goals for the FIP:

- Two parent households except if a member of the household receives SSI.
- A FIP group that has a parent deferred from PATH due to the verified disability or long-term incapacity lasting longer than 90 days.
- The only dependent child in the group is 19 years old and attending high school full time.
- A FIP group with no dependent children because the dependent children are in an out-of-home foster care placement due to abuse or neglect and there is a plan to return the children to the parent's home.
- A FIP group including an adult who has accumulated more than 60 months on their federal time limit counter but meets the federal time limit exception criteria. BEM 234, p. 3.

The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. However, the federal time limit continues, unless the exemption is state funded. Effective Oct. 1, 2011, exemption months are months the individual is deferred from PATH for:

- Domestic violence.
- Age 65 and older.
- A verified disability or long-term incapacity lasting longer than 90 days. Note: This includes the deferral reason of establishing incapacity.
- A spouse or parent who provides care for a spouse or child with verified disabilities living in the home.

The Department failed to appear or provide any evidence as it relates to Petitioner's federal or state countable months. Because the Department failed to provide any evidence as to how Petitioner's months were countable or not and because Petitioner credibly testified as to her care of a disabled child living in the home, the Department has not shown that it properly closed Petitioner's FIP case.

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 FIP eligibility effective as of the closure date;
2. If otherwise eligible, issue FIP supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Wayne-17-hearings
BSC4-HearingDecisions
B. Sanborn
MOAHR

Via-First Class Mail :

Petitioner

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