



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR



Date Mailed: March 20, 2024
MOAHR Docket No.: 24-001683
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on March 13, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) did not appear.

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 an ongoing FIP recipient for many years and her group includes herself and two minor children, [REDACTED] (RM) and [REDACTED] (XA).
2. RM receives supplemental security benefits (SSI) through the Social Security Administration (SSA). (Exhibit 1, p. 10).
3. An application for SSI for XA is pending.
4. An application for SSI for Petitioner is pending.
5. The Department previously closed Petitioner's FIP case for meeting the allotted 60 months' time limit for receipt of FIP benefits and Petitioner requested a hearing to dispute the closure.

6. A hearing was held and on January 30, 2024, Administrative Law Judge Amanda M. T. Marler of the Michigan Office of Administrative Hearings and Rules (MOAHR) issued a decision directing the Department to:
 - a. Redetermine Petitioner's FIP eligibility effective as of the closure date,
 - b. Issue FIP supplements if Petitioner was deemed eligible, and
 - c. Notify Petitioner of its decision in writing.(Exhibit 1, p. 1).
7. On January 31, 2024, the Department issued a Notice of Case Action (NOCA) denying Petitioner cash assistance, effective March 1, 2024 ongoing, asserting that
 - a. RM currently receives SSI and is not included in the group, and
 - b. Petitioner is not eligible because she has received 60 months or more of benefits, which is the time allowed for eligibility based on a change in the law and lifetime limits for cash assistance through FIP. The NOCA specifically states that Petitioner had 69 countable months of assistance as of December 1, 2020.(Exhibit 1, pp. 9 – 10).
8. On February 7, 2024, the Department received Petitioner's request for hearing. Petitioner disputes that the Department is following Judge Marler's decision and that she is ineligible for FIP. (Exhibit 1, p. 4).

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.

Petitioner asserts that the Department failed to comply with a decision issued on January 30, 2024 by Administrative Law Judge Amanda M. T. Marler of the Michigan Office of Administrative Hearings and Rules (MOAHR). She further disputes the Department's determination that she has exceeded the 60-month federal time limit for

FIP benefits and alleges is excepted from such time limit because she has two disabled children, has disabilities herself, and is the sole caregiver of her children. Based on these disputes, Petitioner requested a hearing. (Exhibit 1, p. 4).

Michigan began FIP in October 1996 to provide temporary assistance to families working toward self-sufficiency. BEM 234 (July 2013), p. 1. On October 1, 1996, Michigan law reduced the cumulative total of FIP provided through state assistance to 48 months during an individual's lifetime; additionally, a family is not eligible for federally funded FIP beyond 60 consecutive or non-consecutive months. BEM 234, p. 1. Every month a family received federally funded FIP, from October 1, 1996 to present, are counted toward the 60 month limit. This includes any months in which the family met hardship criteria. BEM 234, p. 1. As of Oct. 1, 1996, no hardship criteria exists in Michigan. BEM 234, p. 1. Any group that includes an individual who has received 60 months or more of FIP is not eligible for the FIP program. BEM 234, p. 2.

Notwithstanding the foregoing, Michigan does 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 Temporary Assistance for Needy Families (TANF) federal months and the individual remains in one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.
- 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 exception ends once 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. The FIP EDG will close or the application will be denied.

BEM 234, p. 2.

Additionally, as outlined by Judge Marler in her decision, Michigan does not count any state funded months toward the federal time limit and, in limited cases, Michigan will state fund cases for:

- 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.

Lastly, Michigan has identified potential exemptions for state funded months, effective October 1, 2011, when an individual is deferred from PATH due to:

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

BEM 234, p. 4; see also BEM 230A (October 2022), p. 17.

In this case, Petitioner disputed that she had received 60 months of assistance. The Department was not present at the hearing and did not provide a state or federal time limit counter showing (1) the months that Petitioner received federally-funded FIP that were being counted towards Petitioner's federal time limit counter and (2) that no state-funded months were being improperly counted towards Petitioner's federal counter. Further, clients who can establish that they were deferred from PATH as of January 9, 2013 for any of the reasons identified in policy (domestic violence, age 65 or older, establishing incapacity, incapacitated more than 90 days, caring for a spouse with disabilities, or caring for a child with disabilities) are eligible for an exception to the federal counter as long as one of these deferral reasons continues. Here, Petitioner has a 13-year-old child who receives SSI due to a disability and, accordingly, may have been eligible for a PATH referral if she was a FIP recipient as of January 9, 2013. Because the Department did not participate in the hearing and did not provide a federal time limit counter showing Petitioner's FIP status as of January 9, 2013, it could not establish whether Petitioner was entitled to an exemption to the 60-month federal FIP timeliness counter.

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 redetermined Petitioner's FIP eligibility effective as of the closure date.

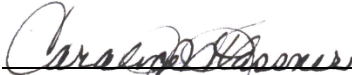
DECISION AND ORDER

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.

CML/ml



Caralyce M. Lassner
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
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties
BSC4
B Sanborn

Via First Class Mail:

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