

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201222010
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: February 1, 2012
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on February 1, 2012 from Detroit, Michigan. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant allegedly exceeding federal or State of Michigan time limit standards.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP benefit recipient.
2. On an unspecified date, DHS scheduled Claimant to attend a WPP orientation appointment for 6/17/11.
3. Claimant reported to DHS that she had medical problems which should defer from WPP.
4. In response, DHS began a process to examine whether Claimant should be deferred from WPP based on medical reasons.

5. On 9/11/11, DHS sent a Notice of Case Action denying Claimant FIP benefits due to Claimant allegedly meeting the lifetime limits for FIP benefits.
6. The DHS Notice of Case Action dated 9/11/11 failed to inform Claimant of a right to request a hearing.
7. DHS did not send a subsequent Notice of Case Action concerning FIP benefit termination based on lifetime FIP benefit limits.
8. On 11/2/11, DHS mailed Claimant a denial (Exhibit 2) based on denial of Claimant's deferral from Work Participation Program, a potentially moot issue, due to the previous notice closing ongoing FIP benefits based on time limits.
9. On 12/21/11, Claimant requested a hearing concerning the termination of FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

DHS typically uses a Notice of Case Action to serve as written notice. A notice of case action must specify the following (see BAM 220 at 1-2):

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

It is known that on 9/11/11, DHS initiated a mass update of FIP benefit terminations for clients that reached or surpassed the lifetime benefit limits on FIP benefits. Presumably, Claimant's case was affected. The issue of 9/11/11 DHS written notices was considered in a federal case brought against DHS. On 10/4/11 the federal court issued a temporary restraining order against DHS and determined that DHS case actions dated 9/11/11

were insufficient because they failed to advise clients of the right to request a hearing, and that the terminations may not proceed.

In the present case, Claimant requested a hearing on 12/21/11, which appears to fall outside of the 90 day window to request a hearing (based on a 9/11/11 written notice). The 90 days from which Claimant would have to request a hearing would be from the date of valid written notice by DHS. DHS gave testimony that the only written notice of FIP benefit termination occurred on 9/11//11 and that no subsequent and corrected notice was sent. Thus, DHS is relying on an improper and uncorrected notice as the basis for Claimant's FIP benefit termination.

If the DHS written notice is found to be improper, it follows that Claimant's hearing request was not untimely concerning the FIP benefit termination because the DHS notice was improper. It is found that DHS failed to provide a proper notice of FIP benefit termination and that Claimant timely requested a dispute of the FIP benefit termination.

The remedy for a failure to provide notice is reinstatement of the benefits regardless of whether there was a legitimate basis for the closure. It should be noted that DHS could not provide any evidence to support that Claimant had reached the lifetime limit for FIP benefits.

A secondary issue was whether Claimant was properly deferred from participation with a Work Participation Program (WPP) for medical reasons. This is not an appropriate issue for an administrative hearing. It would be appropriate if DHS subsequently sent Claimant to WPP after the deferral was denied. DHS did not do this. Thus, Claimant is also entitled to reinstated FIP benefits without reference to whether she should have attended WPP.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated ongoing FIP benefits due to a failure to send proper notice of the termination. It is ordered that DHS:

- (1) reinstate ongoing FIP benefits for Claimant back to 10/2011;
- (2) evaluate Claimant's FIP benefit eligibility based on the finding that Claimant did not exceed federal time limits due to the failure by DHS to give proper written notice on the issue;
- (3) evaluate Claimant's FIP benefit eligibility based on the finding that Claimant was compliant with WPP participation due to the DHS failure to resend Claimant to WPP following the denied deferral; and
- (4) supplement Claimant for any benefits not received as a result of the DHS actions.

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The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 8, 2012

Date Mailed: February 8, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

