

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-5738
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: January 9, 2012
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a hearing was held in Madison Heights, Michigan on Monday, January 9, 2012. The Claimant appeared and testified. The Claimant was represented by Carolyn [REDACTED] Participating on behalf of the Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits based on the group meeting its lifetime maximum benefit?

Whether the Department properly terminated the Claimant's FIP benefits after receipt of the timely request for hearing?

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient.
2. On October 11, 2011, the Department sent a Notice of Case Action informing the Claimant that FIP benefits would terminate based on the Claimant's group having met the lifetime maximum for cash assistance.
3. On October 21, 2011, the Department received the Claimant's timely written request for hearing.

4. The Claimant's FIP benefits terminated effective November 1, 2011.

CONCLUSIONS OF LAW

During the hearing, the Claimant raised two issues (see above) which will be addressed separately.

Lifetime FIP limit termination

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.* The Department of Human Services ("DHS" or "Department"), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code Rules 400.310-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

42 USC 608(a)(7) provides that cash assistance is not available for more than 5 years. A State to which a grant is made under Title 42 shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) ... 42 USC 608(a)(7)(A). Federally funded countable months began to accrue for FIP on October 1, 1996. A family is ineligible when a mandatory member of the FIP group reaches the 60 month federal time limit. 42 USC 608(a)(7).

Conversely, State funded countable months began to accrue for FIP in October 2007 and are limited to the cumulative total of 48 months. BAM 102. Relative to this case, all months in which an individual receives FIP after September 2007 count toward the 48 month limit *except* months in which the individual is "employed **and** meeting the requirements of his/her Family Self Sufficiency Plan (FSSP)"... BAM 102. The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless a good cause exists. BEM 228. **As a condition of eligibility**, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 228.

In this case, the Claimant's group's FIP benefits were terminated after reportedly meeting the lifetime 48 months of State funded FIP benefits. The spouse did not receive any Federally funded FIP benefits. During the hearing, evidence was presented by the Department that established that for at least part of the 48 months at issue, the Claimant's spouse (who was the group member that met the 48 month time limit) was employed and received FIP benefits. Pursuant to BEM 228, as a condition of FIP eligibility, all work eligible individuals must engage in employment and/or self-sufficiency

activities. The Department issued FIP benefits; therefore, the spouse was necessarily meeting the program requirements. As discussed above and based on policy at the time, all months in which an individual receives FIP after September 2007 are countable *except* months in which the individual is engaged in employment and meeting the FSSP. Based on the evidence presented, monthly State funded FIP benefits were counted against the Claimant's group despite the plain language in BAM 102. Ultimately, the Department failed to establish it acted in accordance with Department policy when it terminated the Claimant's FIP benefit for having reached the lifetime State maximum of 48 months.

Timely Hearing Request

Certain changes result from changes by the Federal or State government and involve mass updates of the entire or major portions of the caseload. BAM 220. Mass updates affect various programs to include changes in eligibility factors based on laws or regulations. BAM 220. Timely notice is given for a negative action unless policy specifies adequate notice or not notice. BAM 220. Adequate notice is written notice sent to the client at the same time an action takes effect (not pending). BAM 220. Pursuant to policy, mass updates require timely notice because the proposed action was for a future date.

A timely hearing request is a request received anywhere in the department within eleven days of the effective date of a negative action. BAM 600. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the proposed action when the request for hearing was filed timely. BAM 600. Upon receipt of a timely hearing request, benefits are reinstated at the former level. BAM 600.

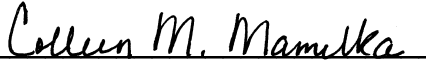
In this case, the Notice of Case Action was dated October 11, 2011. The Department received the Claimant's request for hearing on October 21, 2011, and as such, was timely received. Based on the timely hearing request, the Claimant's FIP benefits should have been reinstated while waiting for the hearing decision. This was not done. In light of the foregoing, it is found that the Department failed to establish it acted in accordance with Department policy when it terminated the Claimant's FIP benefits despite receipt of the timely hearing request. Accordingly, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department failed to establish it acted in accordance with department policy when it terminated the Claimant's FIP benefits.

Accordingly, it is ORDERED:

1. The Department's termination of FIP benefits for having met the 48 month State funded limit is REVERSED.
2. The Department's closure of the Claimant's FIP case despite receipt of the timely hearing request is REVERSED.
3. The Department shall reinstate FIP benefits from the date of closure and supplement for lost benefits that the Claimant was otherwise eligible and qualified to receive in accordance with department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 18, 2012

Date Mailed: January 18, 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 at

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

CMM/cl

cc:

