

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201337983  
Issue No.: 1080  
Case No.: [REDACTED]  
Hearing Date: April 25, 2013  
County: Wayne DHS (31)

**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 April 25, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether DHS properly determined that Claimant exceeded the lifetime limit on Family Independence Program (FIP) benefits.

The second issue is whether DHS properly failed to issue FIP benefits to Claimant prior to the sending a Notice of Case Action.

**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. Through 1/2013, Claimant accrued 79 countable federal FIP benefit months.
3. On 3/18/13, DHS terminated Claimant's FIP benefit eligibility, effective 2/2013, by determining that Claimant exceeded the lifetime limit on FIP benefits funded with temporary assistance for needy families.
4. On 3/18/13, DHS notified Claimant of the closure.

5. On 3/22/13, Claimant requested a hearing to dispute the termination of FIP benefits.

### **CONCLUSIONS OF LAW**

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are contained in BAM, the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The present case concerns a termination of FIP benefit eligibility due to Claimant meeting the lifetime limits of countable federal months. The analysis will begin with determining whether the termination was proper.

The FIP benefit program is not an entitlement. BEM 234 (1/2013). Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. BEM 234. BEM 234 and MCL 400.57a (4) restrict the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 60 months for cash assistance program benefits funded with temporary assistance for needy families whether or not those months are consecutive.

DHS established that Claimant had 79 months of countable federal months through 6/2010 (see Exhibits 1-3). Claimant did not dispute the federal month count. Typically, no further discussion is required. In the present case, further analysis is required because, at the time of FIP benefit termination, Claimant received FIP benefits under the state count.

The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. BEM 234 (10/2011), p. 2. However, the federal time limit continues, unless the exemption is state funded. *Id.* Effective October 1, 2011, exemption months are months the individual is deferred from the work participation program (WPP) for: domestic violence, age 65 and older, a verified disability or long-term incapacity lasting longer than 90 days or a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. *Id.*, pp. 2-3.

Claimant did not allege that he received FIP benefits under the state count for any of the above listed reasons. DHS presented documentation (Exhibits 4-6) tending to verify that Claimant only received FIP benefits after 2010 as part of a lawsuit filed on behalf of FIP recipients. The lawsuit is not known to require DHS to issue FIP benefits to clients

following 1/2013. Based on the presented evidence, it is found that DHS properly terminated Claimant's FIP benefit eligibility.

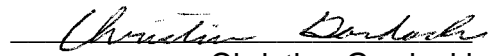
Claimant also contended that DHS failed to properly issue FIP benefits to Claimant for some unspecified period from 2011 through 3/2012, the last month prior to 1/2013 that Claimant did not receive FIP benefits. There is no known basis to justify Claimant's contention. It is found that DHS properly did not issue FIP benefits to Claimant from 2011-3/2012.

Claimant also contended that DHS should have issued FIP benefits to Claimant for 2/2013 and 3/2013 based on a Notice of Case Action dated 3/18/12. In other words, DHS appeared to terminate Claimant's FIP benefit eligibility and two months later, officially informed Claimant of the termination. Per DHS policy, Claimant is technically correct (see BAM 220).

Had DHS issued FIP benefits to Claimant in 2/2013 and 3/2013, the benefits would have been properly issued based on DHS notice procedures but improperly issued for substantive reasons. Claimant exceeded his federal countable month limit long before 1/2013. If DHS issued FIP benefits for 2/2013 and 3/2013, DHS could have potentially pursued reimbursement from Claimant for the over-issued benefits. Claimant is entitled to receive proper notice for DHS case actions, but he is not entitled to receive benefits for which he is not entitled. Based on the present circumstances, the DHS error to issue notice to Claimant prior to the FIP benefit termination is deemed to be harmless.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective 2/2013. It is also found that DHS properly did not issue FIP benefits to Claimant from 2011 through 3/2012. It is lastly found that DHS failed to provide Claimant proper notice of the FIP benefit termination, but that the error was harmless. The actions taken by DHS are AFFIRMED.

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

Date Signed: 5/8/2013

Date Mailed: 5/8/2013

**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

CG/hw

cc:



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