

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

IN THE MATTER OF:



Reg. No.: 2013-53458
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility.

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. Claimant was deferred from employment-related activities based on a medical deferral.
3. Through 8/2011, Claimant received 81 countable months of federally funded FIP benefits since 6/1996.
4. On 4/30/13, DHS initiated termination of Claimant's FIP eligibility, effective 6/2013, due to Claimant meeting the lifetime limit for receiving federally funded FIP benefits.
5. On 6/12/13, Claimant requested a hearing to dispute the FIP benefit termination.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) 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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The present case concerns a FIP application termination. It was not disputed that DHS terminated Claimant's FIP eligibility for meeting the lifetime limit of federally funded FIP benefits.

The FIP benefit program is not an entitlement. BEM 234 (1/2013), p.1. 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. *Id.*

On 10/1/2007, Michigan law reduced the cumulative total of FIP to 48 months during an individual's lifetime. *Id.* Notwithstanding, under the Family Independence Program, a family is not eligible for assistance beyond 60 consecutive or non-consecutive federally funded months. *Id.* Federally funded countable months began to accrue for FIP on 10/1/96. Each month an individual receives federally funded FIP, the individual receives a count of one month. *Id.* A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. *Id.*

DHS presented Claimant with documentation, which verified that Claimant received federally funded FIP benefits in 81 countable months through 8/2011. Claimant did not dispute the count, other than an approximate three-month period when DHS disqualified Claimant from receiving FIP benefits. Even if it was found that DHS wrongly counted three sanction months, Claimant's monthly count would still exceed the 60 month limit. It is found that Claimant is not entitled to receive FIP benefits unless she qualifies for an exception to the federal count.

The federal 60-month time limit policy does not apply to individuals who met the following criteria on January 9, 2013:

- an approved/active ongoing FIP EDG; and
- who was exempt from participation in the PATH program for:
 - domestic violence
 - establishing incapacity
 - incapacitated more than 90 days
 - aged 65 or older
 - care of a spouse with disabilities
 - care of a child with disabilities.

BBP 2013-006 (3/2013), p. 1.

It was established that Claimant stopped receiving federally funded FIP benefits after 9/2011, but continued to receive FIP benefits through 5/2013. The likeliest explanation for Claimant's continuance of FIP benefits was a deferral from the federal count. The presented evidence suggested that the deferral was a medical one. It is probable that Claimant received FIP benefits since prior to 1/2013 for being medically deferred. Thus, Claimant met the above exception.

The above exception continues as long as:

- the individual's ongoing FIP EDG reaches 60 TANF federal months and the individual remains 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.
- Id.*

The exception ends once one of the above individuals no longer qualifies for one of the above employment deferral criteria, as well as other standard eligibility criteria. *Id.* The FIP EDG will close or the application will be denied. *Id.*

It is known that DHS ceased Claimant's deferral. DHS may be authorized to do so, if a client failed to submit documentation concerning continuing the deferral or the Medical Review Team issues a decision terminating the deferral. No evidence of either circumstance was presented. Thus, DHS failed to establish a basis for terminating Claimant's deferral.

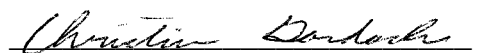
Without evidence of a basis for terminating Claimant's medical deferral, DHS also failed to establish a basis for terminating FIP eligibility. Accordingly, the FIP benefit eligibility was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FIP eligibility, effective 6/2013, subject to the finding that DHS failed to establish that Claimant's medical deferral from employment-related activities was properly terminated; and
- (2) supplement Claimant for any FIP benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 8/20/2013

Date Mailed: 8/20/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc:

