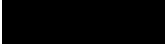


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**


IN THE MATTER OF:



Reg. No.: 201332311
Issue No.: 1080
Case No.: 
Hearing Date: June 26, 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on June 26, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included , Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) eligibility due to meeting the lifetime limit for receipt of benefits.

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. As of 1/9/13, Claimant was deferred from participation with Partnership. Accountability. Training. Hope. (PATH) for being a disabled individual.
3. As of 1/9/13, Claimant received FIP benefit months in 60 federal countable months since 6/1996.
4. On 2/10/13, DHS terminated Claimant's FIP benefit eligibility, effective 3/2013, due to Claimant meeting the lifetime limits for receiving FIP benefits.
5. On 2/15/13, Claimant requested a hearing to dispute the FIP benefit termination.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in Bridges Policy Bulletin (BPB).

It was not disputed that DHS initiated termination of Claimant's FIP benefit eligibility, effective 3/2013. It was not disputed that the basis for the termination was Claimant meeting the lifetime limit for 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.*

DHS alleged that Claimant received 60 countable federal months of FIP benefits through 2/2013. Generally, clients are entitled to receive notice, prior to the hearing, of the months used in the 60 limit count. If DHS does not provide a breakdown to a client, clients are greatly handicapped in verifying whether the count is accurate. For example, if Claimant knew that DHS counted 1/2007-12/2012 in the 60 month limit, perhaps Claimant could obtain verification that benefits were not issued or that the months were exempt from the federal count. It was not disputed that DHS provided Claimant with no breakdown of the 60 month count. For this reason alone, the termination is found to be improper.

A second reason also exists for reversing the FIP benefit termination. It was not disputed that Claimant was deferred from PATH as of 1/9/13 and remained deferred since 1/9/13.

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

- o care of a spouse with disabilities
 - o care of a child with disabilities.
- BBP 2013-006 (3/2013), p. 1.

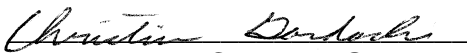
Because Claimant was PATH deferred as of 1/9/13, DHS should have exempted Claimant from the federal time-limit count. The failure by DHS to exempt Claimant from the federal count renders the FIP termination to be improper.

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 benefit eligibility. It is ordered that DHS:

- (1) redetermine Claimant's FIP benefit eligibility, effective 3/2013, subject to the finding that Claimant was deferred from PATH participation and exempt from a termination based on federal time limits; and
- (2) initiate supplement of any benefits lost as a result of the improper benefit termination.

The actions taken by DHS are REVERSED.


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

Date Signed: 7/5/2013

Date Mailed: 7/5/2013

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:

