

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

IN THE MATTER OF:



Reg. No.: 201336627
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Wayne DHS (98)

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. Numerous telephone calls were made to the Department of Human Services (DHS) in an attempt to enlist the participation of a DHS representative; no DHS representative was available. The hearing was conducted approximately 90 minutes after the scheduled time without the participation of DHS.

ISSUE

The issue is whether the DHS properly determined that Claimant exceeded the lifetime limit on Family Independence Program (FIP) 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. Through 1/2013, Claimant accrued 162 months of countable federal FIP benefit months.
3. On 2/10/13, DHS terminated Claimant's FIP benefit eligibility, effective 3/2013, by determining that Claimant's countable federal FIP benefit months exceeded the lifetime limit.
4. On 2/10/13, DHS notified Claimant of the closure.

5. On 3/15/13, Claimant submitted to DHS a Request for Hearing disputing the termination of FIP benefits.

CONCLUSIONS OF LAW

Clients have the right to contest a Department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. The Department Bridges Administrative Manual (BAM) 600 (February 1, 2013). The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code (Mich Admin Code), R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because the claim for assistance is denied. Mich Admin Code, R 400.903(1).

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 FIP benefit program is not an entitlement. BEM 234 (January 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.

The present case concerns a FIP benefit termination based on Claimant meeting the lifetime limits for FIP benefit eligibility. Though DHS did not appear for the hearing, previously submitted documentation verified that DHS counted 162 months towards Claimant's lifetime FIP limit. Claimant did not dispute that she received 162 months of countable FIP benefits. Instead, Claimant alleged that DHS improperly counted months where Claimant was disabled.

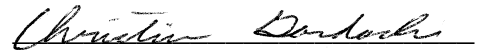
The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. BEM 234 (10/2011), p. 2. However, the federal time limit continues, unless the exemption is state funded. *Id.* Effective October 1, 2011, exemption months are months 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 testified that she was deferred from work participation program due to disability at various times in the past; this testimony was credible and not rebutted. However, it is also improbable that Claimant was deferred from WPP participation for more than 102 months (the difference between Claimant's countable months and the 60 month limit).

It might be more likely that Claimant was deferred for 8 ½ years from WPP if she was deemed disabled by DHS or the Social Security Administration. Claimant conceded that she was never determined by SSA (or by DHS) to be so disabled. Based on the presented evidence, it is found that DHS properly determined that Claimant's countable months exceeded the time limit to receive FIP benefits. Accordingly, the FIP benefit termination was proper.

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 3/2013. The actions taken by DHS are AFFIRMED.


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

Date Signed: 5/1/2013

Date Mailed: 5/1/2013

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:

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- 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:

