

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201345362
Issue No.: 1000, 1080, 3029
Case No.: [REDACTED]
Hearing Date: June 3, 2013
County: Wayne DHS (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

AMENDED 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 3, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED] Specialist, [REDACTED], Manager, and [REDACTED], Assistant Director for PATH agency.

This hearing decision is amended solely to update the decision mailing date. All other content is identical to any previously mailed decisions concerning the above-cited registration number.

ISSUES

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

The second issue is whether Claimant is entitled to dispute an employment-related disqualification related to a Food Assistance Program (FAP) determination when Claimant previously requested a hearing and failed to appear.

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 and FAP benefit recipient.
2. In [REDACTED], Claimant had medical problems which led to a claim of disability.

3. In late 1/2013, Claimant reported to DHS a claim of disability.
4. As of [REDACTED] Claimant received 105 federal countable months of FIP benefits.
5. On [REDACTED] DHS terminated Claimant's FIP benefit eligibility, effective 4/2013, due to Claimant meeting the lifetime limits for receiving FIP benefits.
6. On [REDACTED] DHS determined Claimant's FAP benefit eligibility, effective 5/2013, in part, based on a household size of two because Claimant was excluded due to an employment-related disqualification.
7. On [REDACTED], Claimant requested a hearing to dispute the FIP benefit termination and FAP benefit amount.

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).

Claimant requested a hearing, in part, to dispute an alleged termination of FIP benefits from 2/2013. DHS presented testimony that Claimant's FIP eligibility was reinstated from 2/2013 and that Claimant received benefits for 2/2013 and 3/2013, before DHS initiated another benefit termination for a separate reason. After the hearing, DHS presented an Eligibility Summary (Exhibit 1) which verified that Claimant received \$905 in FIP benefits for 2/2013 and 3/2013. Accordingly, Claimant's hearing request is dismissed, in part, due to a failure to establish any loss of benefits.

It was not disputed that DHS initiated termination of Claimant's FIP benefit eligibility, effective 4/2013, based on Claimant exceeding the lifetime limit for receiving 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.*

It was not disputed that Claimant received 105 countable federal months of FIP benefits. Thus, Claimant appears to have massively exceeded the lifetime limits for receiving FIP benefits.

Claimant alleged that she was exempt from 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 questionable whether Claimant asserted a claim of disability from PATH as of [REDACTED]. It was not disputed that Claimant was hospitalized in 12/2012 due to heart-related issues. Claimant testified that she reported the problems to DHS in 1/2013 or 2/2013. Generally, an average of a range is a best estimate of determining an exact item. Averaging Claimant's dates would make it most likely that the actual reporting date was somewhere around the end of 1/2013 or early 2/2013. This makes it more likely that Claimant was not deferred from PATH as of [REDACTED].

Further, it has already been found that Claimant misremembered (in her favor) not receiving FIP benefits for 2/2013 and 3/2013. This inaccuracy makes it more likely that Claimant may be misremembering (in her favor) when the claim disability began.

Based on the presented evidence, it is found that Claimant was not deferred from PATH participation as of [REDACTED]. Accordingly, Claimant did not meet an exception to the federal time limits and DHS properly terminated Claimant's FIP benefit eligibility.

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing, in part, to dispute a FAP benefit determination effective 5/2013. Claimant testified that she only disputed the determination because she needed more in FAP benefits. Claimant's objection is not a basis for administrative remedy. It was clear from the Notice of Case Action (Exhibits 3-4) that the benefit determination only factored two persons from the household. It was not disputed that Claimant was part of a household of three persons. The evidence strongly suggested that Claimant was excluded from the determination because of a previous finding of noncompliance in PATH participation. The disqualification resulting in a FAP benefit reduction (from several months prior) appeared to be the motivation behind Claimant's FAP benefit dispute.

Claimant presented testimony that she previously requested a hearing to dispute an employment-related sanction to PATH. Testimony from Claimant also tended to verify that she failed to appear for the resulting hearing. A subsequent request to vacate the dismissal was denied. Though DHS suggested that the decision was vacated, Claimant's testimony was consistent with MAHS records. It is found that Claimant is barred from re-requesting a hearing related to dispute the correctness of a FIP-related employment disqualification.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a penalty on the FIP program;
- the client is not deferred from FAP work requirements; and
- the client did not have good cause for the noncompliance.

BEM 233B (1/2013), p. 2.

It was established that the FAP disqualification was imposed because Claimant was active FIP and FAP on the date of noncompliance. Accordingly, DHS established a proper basis for the FAP benefit disqualification. It still must be determined whether Claimant's circumstances justified a deferral from a FAP benefit penalty.

Clients meeting one of the criteria below are temporarily deferred from FAP employment-related activities:

- Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.
- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.
- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.
- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related

activities requirement. This includes persons attending school for GED or adult high school completion.

- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B (12/2011), pp. 3-5.

There was no evidence that Claimant had a basis for deferral from FAP employment-related activities. It is found that DHS properly disqualified Claimant from FAP benefit eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to administrative review for a loss of FIP benefits from 2/2013 and 3/2013 because Claimant failed to establish a basis for administrative review. Claimant's hearing request is PARTIALLY DISMISSED.

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 and imposed a FAP benefit disqualification. The actions taken by DHS are AFFIRMED.



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

Date Signed: 4/4/2014

Date Mailed: 4/4/2014

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:

