

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201345640
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: June 3, 2013
County: Wayne DHS (17)

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 3, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], 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).
3. As of 1/9/13, Claimant received FIP benefit months in 124 federal countable months since 6/1996.
4. On an unspecified date after 1/9/13, DHS determined that Claimant was no longer deferred from PATH participation.
5. On 4/16/13, DHS terminated Claimant's FIP benefit eligibility, effective 5/2013, due to Claimant meeting the lifetime limits for receiving FIP benefits.

6. On 4/25/13, 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).

The present case concerns a FIP benefit termination 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 124 countable federal months of FIP benefits (see Exhibits 1-4). Thus, Claimant appears to have far exceeded the lifetime limits for receiving FIP benefits.

Claimant alleged that she should be exempt from the federal count because of a disability. 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 P.A.T.H. 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 DHS found Claimant to be deferred from PATH participation as of 1/9/13. Thus, Claimant appears eligible for the exception.

The 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. *Id.* In these instances, the FIP EDG will become state funded after the 60th month. *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. *Id.*

DHS presented testimony that, after 1/9/13, DHS determined that Claimant was no longer deferred from PATH participation (i.e. Claimant was no longer disabled). The consequence of the determination was that Claimant was no longer exempt from the federal time limits. DHS presented no evidence to justify a finding that Claimant was not eligible for PATH deferral based on disability. Claimant presented no evidence to support a basis for deferral. Determining whether DHS has the burden to justify their determination or Claimant has the burden to rebut the determination will dictate the outcome of the present case.

DHS has access to Medical Review Team documents considered in the determination; a claimant has no such access. This consideration and the fact that DHS previously deemed Claimant to be disabled justifies placing DHS with the burden of establishing a lack of disability. As it was found that DHS failed to meet this burden, it is found that the FIP benefit termination was improper.

Two other items should be noted about this decision. First, this decision was made based on a failure by DHS to establish a lack of disability, not a finding that Claimant was disabled. Thus, this decision only affects the DHS decision dated 4/16/13. DHS is not precluded from pursuing future FIP benefit terminations based on updated MRT decisions.

Secondly, administrative review of an MRT decision concerning a client's disability is inappropriate when the consequence is that a client is obligated to attend PATH in order to continue FIP eligibility. DHS policy specifically prevents such administrative review because the DHS determination does not directly impact a client's FIP eligibility. In the present case, the MRT determination of disability directly affects whether a FIP case remains open; thus administrative review is appropriate.

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 5/2013, subject to the finding that the MRT improperly determined that Claimant was not deferred from PATH; and
- (2) initiate supplement of any benefits lost as a result of the improper determination.

The actions taken by DHS are REVERSED.



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

Date Signed: 6/25/2013

Date Mailed: 6/25/2013

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:

