

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-34841  
Issue No.: 1010  
Case No.: [REDACTED]  
Hearing Date: May 29, 2014  
County: Monroe

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 29, 2014, from Monroe, Michigan. Participants included the above-named Claimant. [REDACTED]

[REDACTED] appeared as Claimant's authorized hearing representative (AHR and legal counsel. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

**ISSUE**

The issue is whether DHS properly terminated Claimant's cash assistance eligibility due to Claimant meeting federal lifetime limits.

**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 Family Independence Program (FIP) recipient.
2. Claimant was deferred from employment-related activities due to a medical deferral.
3. On [REDACTED], DHS placed an unrelated child in Claimant's home.
4. On [REDACTED], DHS requested various medical forms from Claimant.

5. The due date for Claimant to return medical forms was [REDACTED].
6. Claimant failed to timely return medical forms.
7. On [REDACTED], DHS mailed Claimant a Notice of Case Action (Exhibits 9-15) initiating termination of Claimant's FIP eligibility, effective 5/2013, due to Claimant meeting the lifetime federal FIP benefit limit.
8. On [REDACTED], Claimant requested a hearing to dispute the FIP benefit termination (see Exhibits 3-4).
9. DHS continued issuing an unspecified reduced amount of FIP benefits to Claimant through her status as an ineligible grantee.

### **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, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Prior to a substantive analysis, multiple procedural issues must first be addressed.

Claimant requested a hearing to dispute a termination of FIP benefits, effective [REDACTED]. It was not disputed that DHS terminated Claimant's FIP eligibility because Claimant exceeded the time limit to receive federally-funded FIP benefits.

Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. BEM 234 (1/2013), p. 1. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established a five-year (60-month) lifetime limit on assistance for adult-headed families. *Id.* The begin date for the federal time limit counter is October 1, 1996. In line with the goals of the Family Independence Program, any group that includes an individual who has received 60 months or more of FIP is not eligible for the FIP program. *Id.*

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's FIP benefit issuance history (Exhibits 6-8). The history verified that Claimant's received 63 months of FIP benefits through [REDACTED]. It is found that Claimant exceeded her lifetime limits for federally-funded FIP benefits.

Claimant's legal counsel presented three arguments to dispute the FIP benefit termination. Claimant's AHR contended that DHS should have held a triage before

terminating Claimant's FIP eligibility. Claimant's AHR contended that DHS' procedural failure is fatal the FIP benefit termination.

PATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A (1/2013), p. 7. DHS is to determine good cause based on the best information available during the triage and prior to the negative action date. *Id.*

It was not disputed that Claimant was deferred from PATH participation due to unspecified medical reasons. If Claimant was not a PATH participant, DHS has no requirement to hold a triage before terminating FIP eligibility. Thus, DHS did not have a procedural obligation to hold a triage before terminating Claimant's FIP eligibility.

Claimant's other disputes relate to exceptions to time limits of federally funded FIP benefits. DHS outlines specific circumstances which allow clients to continue to receive FIP benefits through state-funded benefits, and in other circumstances, exemptions to state-funded benefits.

Any month that an individual's FIP assistance is state funded is not a countable month toward the federal time limit count. BEM 234 (1/2013), p. 2. To meet the goals of the Family Independence Program, in a limited number of cases, the department has determined to state fund cases with one or more of the following characteristics:

- Two parent households. Exception: If one of the parents receives SSI, the group is considered a single parent household and is federally funded.
- A group that has a parent deferred from Partnership. Accountability. Training. Hope. (PATH) due to a verified disability or long-term incapacity lasting longer than 90 days; see BEM 230A.
- Court-ordered, unrelated caregivers receiving FIP for a child placed in the home by children services; see BEM 210.
- The only dependent child in the FIP group is 19 years old and attending high school full-time. This applies to months before October 1, 2011.
- A FIP group with no dependent child(ren). This applies only when the legal parent(s) and/or stepparent receives FIP when their dependent child(ren) is in an out-of-home foster care placement due to abuse and/or neglect when there is a plan to return the child(ren) to the parent's home; see BEM 210.  
*Id.*, p. 2.

The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. *Id.* However, the federal time limit continues, unless the exemption is state funded. Effective October 1, 2011, exemption months are months the individual is deferred from PATH for:

- Domestic violence.
- Age 65 and older.
- A verified disability or long-term incapacity lasting longer than 90 days.
- A spouse or parent who provides care for a spouse or child with verified disabilities living in the home.

*Id.*

It was not disputed that Claimant submitted a Medical Needs- Work Participation Program (DHS-54E) (Exhibit 18) to DHS. The DHS 54-E was completed by Claimant's physician on [REDACTED]. The DHS-54-E stated that Claimant was restricted to standing and/or walking less than 2 hours per 8-hour workday. The form also stated that Claimant was unable to perform any job due to cervical disc disease. The submission of the DHS-54-E is only the first step in a PATH deferral.

For verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. BEM 230A (1/2013), p. 10. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. *Id.* If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation. *Id.*

It was not disputed that DHS mailed Claimant a Medical Determination Verification Checklist (Exhibits 16-17). The DHS form requested various medical documents from Claimant to further establish that Claimant's medical condition justified continued deferral from PATH activity. Claimant's due date to return medical forms was [REDACTED]. DHS alleged that Claimant did not return the requested forms. Claimant testified that she did.

The testifying DHS representative testified that he is the DHS office PATH coordinator who is responsible for deferring clients from PATH participation. He testified that he spoke with Claimant's specialist on numerous occasions and was repeatedly advised that Claimant's medical documents were not received. The representative cited a spreadsheet that he developed as a method of tracking client cases.

The DHS representative's testimony was hindered by the fact that he lacked first-hand knowledge. He had no direct dealings with Claimant and he would not have been the person who would have received requested medical documents. However, the representative's testimony was persuasive. The representative was well organized and confident in his belief that Claimant did not submit documents to support continued PATH deferral.

Claimant presented a hard copy of an email (Exhibit A8) sent to Claimant's specialist on [REDACTED]. Claimant's email stated that she previously returned "papers from the doctors". The email did not specify which documents were returned, or when the documents were returned. It is possible that Claimant's statement referred to the DHS-54E or documents from several months prior. Despite the lack of specifics, the email was mildly persuasive evidence in establishing that Claimant returned documents to support a medical deferral.

Claimant testified that she always makes copies of submitted documents to DHS. Claimant did not bring any medical documents to the hearing but was certain she could

obtain medical documents following the hearing. Following the hearing, Claimant failed to present any of the allegedly returned medical documents. This was compelling evidence that Claimant did not timely return medical documents to DHS. It is found that DHS properly did not evaluate Claimant for an exception to federally-funded FIP lifetime limits.

Claimant also alleged that she was a foster parent. Following the administrative hearing, Claimant presented Wayne County Circuit Court documents (Exhibits A1-A6). Claimant also presented a letter from DHS verifying a foster care placement as of [REDACTED]. Claimant's AHR contended that Claimant's status as a caretaker for a court-placed child justifies Claimant's continued receipt of a state-funded FIP benefit amount.

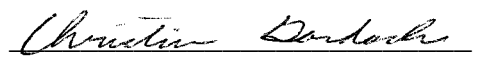
It is difficult to decipher DHS' intent in listing which FIP cases should be state-funded. To help decipher DHS intent, the precise state-funded exception should be evaluated.

The policy statement, "unrelated caregivers receiving FIP *for a child...*" implies that the state-funded FIP circumstance does not apply to caregivers seeking benefits for themselves and biological children. DHS conceded that Claimant is entitled to receive state-funded FIP benefits for a court-placed child as an ineligible grantee. DHS contended that the exception does not justify continuing FIP benefits for Claimant and her biological children. The DHS interpretation appears reasonable.

Claimant's counsel contended that qualifying for state-funded FIP benefits is the equivalent of a federal time limit exception. DHS policy appears to distinguish between state-funded FIP benefits and federal time limit exceptions because different qualifying factors are provided for each. Thus, if Claimant's status as a court-ordered caretaker was found to qualify her to receive a full state-funded FIP benefit grant, Claimant would still be ineligible for FIP because she exceeded federal time limits. In other words, clients that exceed lifetime FIP limits are ineligible for FIP unless they qualify for an exception from the second group of exceptions listed above. Claimant did not contend that she meets any of those exceptions. Based on the presented evidence, it is found that DHS properly terminated Claimant's FIP eligibility for herself and her biological children due to Claimant exceeding FIP federally-funded lifetime limits.

### **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 eligibility, effective [REDACTED]. The actions taken by DHS are **AFFIRMED**.

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

Date Signed: 6/27/2014

Date Mailed: 6/27/2014

**NOTICE OF APPEAL:** 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.

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).

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:

