

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001794
Issue No.: 1010
Case No.: [REDACTED]
Hearing Date: September 3, 2014
County: Wayne (57)

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 September 3, 2014, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, [REDACTED] Specialist, and [REDACTED], Specialist (via telephone).

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) eligibility due to Claimant's receipt of benefits exceeding 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 FIP benefit recipient.
2. As of 1/2011, Claimant received state-funded and non-countable FIP benefits, in part, based on work incapacitation.
3. On [REDACTED] DHS terminated Claimant's FIP eligibility, effective 5/2014, due to Claimant exceeding the lifetime limit of federally-funded FIP benefits (see Exhibits 5-6).

4. On [REDACTED], Claimant requested a hearing to dispute the termination of FIP benefits.

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 5/2014. It was not disputed that DHS terminated Claimant's FIP eligibility because Claimant exceeded the time limit to receive federally-funded FIP benefits.

The Family Independence Program (FIP) is not an entitlement. BEM 234 (7/2013), p. 1. FIP requires an individual to meet all eligibility criteria required for the receipt of federal or state funds or determined necessary by the department to accomplish the goals of the program. *Id.* 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.* The message that FIP is temporary is an important part of how Michigan helps parents take advantage of the opportunities for work as well as self-sufficiency and independence. *Id.* Families receiving FIP are to engage in activities that will help them gain financial independence and increase self-sufficiency.

Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. 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.*

DHS presented Claimant's federally-funded FIP benefit issuance history (Exhibits 1-6). The documents verified that Claimant received 112 months of FIP benefits over the months of 5/1998-3/2009. Claimant's AHR noted that 15 of the months should not have been included in the 112 month count, however, it was not disputed that Claimant still received more months of federally-funded FIP benefits than allowed by DHS policy.

It was curious that Claimant continued to receive FIP benefits after 3/2009 even though Claimant had long exceeded her lifetime limit for receiving FIP benefits. DHS policy allows some clients to continue to receive FIP benefits despite exceeding federally-funded FIP benefit lifetime limits.

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.

BEM 234 (7/2013), p. 2.

Claimant's AHR presented a Michigan FIP Time Limit (Exhibits A1-A6) which listed Claimant history of state-funded FIP benefits. Claimant received state-funded FIP benefits, beginning 5/2009 and through 4/2014. Each of the benefit months since 1/2013 was noted to be exempted, either due to "Incapacitated to Work" or "Federal Exception Client". Thus, it appears that Claimant established to DHS that she was disabled as of 1/2013 allowing her to continue receiving FIP benefits by being exempt from the federal FIP benefit count.

The above 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. In these instances, the FIP EDG will become state funded after the 60th month.
 - the individual, at application, is approved as any of the above employment deferral reasons. In these instances, the FIP EDG will be state funded.
- Id.*

It can be deduced that DHS determined Claimant to be no longer exempt from PATH participation when DHS terminated Claimant's FIP eligibility. It must be determined whether DHS properly made the determination.

After MRT determines a recipient meets the established disability criteria, DHS is to verify the following:

- Update the Disability Determination- MRT and Employment Services screen to indicate the recipient is Incapacitated Greater than 90 Days.
- The CASH-EDG Summary will show the Deferral/Participation Reason of Incapacitated more than 90 days.
- If the recipient has not already done so, he/she **must** apply for Retirement Survivors Disability Insurance/Supplemental Security Income (RSDI/SSI). Verify the application/appeal is pending; see Verification Sources later in this item.

BEM 230A (10/2013), p. 15.

When there is an application pending with the SSA the specialist must monitor the RSDI/SSI claim by entering a Disability Review Date in three month intervals on the Disability Determination-MRT screen in Bridges. *Id.*

Claimant provided testimony that she repeatedly and unsuccessfully applied for RSDI and/or SSI benefits. Claimant's testimony makes it highly tempting to find that DHS properly changed Claimant to non-exempt PATH status. Claimant's testimony did not establish that her application was denied since 1/2013.

Fortunately for Claimant, DHS could not provide any basis for changing Claimant's PATH exemption status from medically deferred. It is found that DHS failed to justify changing Claimant's status as exempt from PATH participation. Accordingly, the termination of Claimant's FIP eligibility was 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 eligibility. It is ordered that DHS reinstate and process Claimant's FIP eligibility, effective 5/2014 and through the date of this decision, subject to the finding that DHS failed to provide a basis for removing Claimant from PATH exempt status. The actions taken by DHS are **REVERSED**.



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

Date Signed: 10/2/2014

Date Mailed: 10/2/2014

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

