

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

MAHS Reg. No.: 15-015432
Issue No.: 1010 2000 3001
Agency Case No.: ██████████
Hearing Date: October 21, 2015
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 21, 2015, from Detroit, Michigan. Participants included the above-named Petitioner. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, specialist, and ██████████, manager.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FIP and FAP recipient.
2. Petitioner's FAP group included her daughter and son.
3. Petitioner was medically deferred from PATH participation.
4. Petitioner received 85 countable months of federally-funded FIP benefits.
5. Petitioner's daughter had ongoing employment of ██████████.

6. Petitioner's son was working 20 hours averaging gross monthly employment income of [REDACTED].
7. On July 6, 2015, Petitioner's son quit his job.
8. On July 31, 2015, MDHHS determined Petitioner's FAP eligibility, in part based on total employment income of [REDACTED].
9. On August 5, 2015, MDHHS terminated Petitioner's FIP eligibility, effective September 2015, after ending Petitioner's PATH deferral for the reason that Petitioner verify Social Security Administration (SSA) application information.
10. On August 19, 2015, Petitioner requested a hearing to dispute a termination of FIP benefits, effective September 2015, FAP eligibility from August 2015, and an unspecified Medical Assistance dispute.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a MDHHS action affecting her MA eligibility. Petitioner testified that she has no ongoing dispute concerning MA benefits. Petitioner's testimony equated to a partial withdrawal of her hearing request. Concerning Petitioner's dispute of MA benefits, Petitioner's hearing request will be dismissed.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FIP benefits. It was not disputed that MDHHS terminated Petitioner's eligibility for exceeding federal time limits.

Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. BEM 234 (July 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. *Id.*, pp. 1-2. 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.*, p. 2. 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 Petitioner's federal month count was 85. Petitioner testimony indicated she is exempt from the federal time limits due to an ongoing disability.

Michigan will provide an exception to the federal 60 month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

- An approved/active ongoing FIP EDG and
 - Who was exempt from participation in the Partnership. Accountability. Training. Hope. (PATH) program for: Domestic violence.
 - Age 65 or older.
 - Establishing incapacity.
 - Incapacitated more than 90 days.
 - Care of a spouse with disabilities.
 - Care of a child with disabilities.

Id.

It was not disputed that Petitioner was medically deferred from PATH participation due to a long-term disability claim. Though Petitioner may have qualified for a federal time limit exception, it is not one that lasts in perpetuity.

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. 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.

The exception ends once one of the above individuals no longer qualifies for one of the above employment deferral reasons or they no longer meet other standard eligibility criteria for FIP. *Id.* The FIP EDG will close or the application will be denied. *Id.*

MDHHS alleged that Petitioner's PATH deferral properly ended after Petitioner failed to comply with requirements in extending the deferral. The procedure for PATH deferrals based on disability is outlined in MDHHS policy.

Once a client claims a disability, he/she must provide MDHHS with verification of the disability when requested. BEM 230A (July 2015), p. 12. The verification must indicate that the disability will last longer than 90 calendar days. *Id.* If the verification is not returned, a disability is not established. If the client claims a disabling condition expected to last more than 90 days, it must be verified by one of the following: note from client's doctor, DHS-49, DHS-54A, [or] DHS-54E. *Id.*, pp. 23-24.

MDHHS testimony initially indicated that Petitioner failed to return needed medical documents. MDHHS testimony later conceded that Petitioner returned a Medical Examination Report (DHS-49), Medical Needs form (DHS-54E), as well as other medical forms. Thus, Petitioner appears to have returned enough documentation for DHHS to evaluate her ongoing claim of long-term disability. For further evaluation, MDHHS sends a client's documents to the Medical Review Team (MRT).

It was not disputed that Petitioner applied for disability benefits with the Social Security Administration in approximately 2011. Petitioner's testimony conceded she lost her administrative hearing at SSA. Petitioner's testimony conceded that she exhausted her appeals at the Social Security Administration, though Petitioner also testified she was improperly denied by the SSA Appeals Council because they failed to evaluate all medical documentation. Despite Petitioner's unverified claim of an improper denial, a denial by the Appeals Council equates to exhausting SSA appeals.

Consideration was given to recognizing the final SSA denial of disability as binding on MDHHS. Such a conclusion is consistent with BEM 260. BEM 260 applies to determinations of disability for purposes of Medicaid eligibility. There is no indication that the policy is applicable to PATH deferrals. Thus, Petitioner's denial of disability at SSA is found to be irrelevant to the present analysis.

It was not disputed that Petitioner failed to return a form verifying her status as a SSI/RSDI applicant. MDHHS alleged that there was no need to forward Petitioner's documents to the MRT because of Petitioner's procedural failure. BEM 230A refers to the unreturned form (a DHS-1552) and states it is appropriate when verification of a RSDI/SSI application is needed. It is debatable whether the form was needed.

Among the steps for medical determination reviews, is completing a DHS-3503 MRT requesting various required items- one of which is verification of SSA application/appeal (see BAM 815). This policy supports a finding that MDHHS properly ended Petitioner's medical deferral from PATH.

MDHHS has an alternative method of verifying Petitioner's disability claim status at SSA. MDHHS is known to have SSA application available by way of an SOLQ. An SOLQ is an acceptable verification source for a client's SSA disability claim status (see

BEM 230A (July 2015), p. 25 and BAM 815 (July 2015), p. 8). Thus, MDHHS could have verified Petitioner's disability claim even though Petitioner did not verify the information. There was no evidence that Petitioner's information was not available via SOLQ. MDHHS provided no explanation for why an SOLQ was needed in place of the DHS-1552.

It is found that MDHHS should have attempted to use an SOLQ to verify Petitioner's SSA disability claim and that a DHS-1552 was not a required document. Accordingly, it is found that MDHHS improperly terminated Petitioner's PATH deferral by failing to rely on an SOLQ for Petitioner's SSA disability claim. It is also found that MDHHS wrongly terminated Petitioner's FIP eligibility as a result of the end of Petitioner's medical deferral.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing, in part, to dispute her FAP eligibility, effective August 2015. It was not disputed that MDHHS redetermined Petitioner's FAP eligibility following the return of a Semi-Annual Contact Report.

MDHHS did not provide a budget or budget summary explaining what amounts were used in the FAP budget. During the hearing, MDHHS provided credible testimony of each FAP budget amount. Petitioner did not dispute budgeted amounts for unearned income [REDACTED], [REDACTED], [REDACTED], [REDACTED].

Petitioner understandably did not know if MDHHS applied the proper standard deduction [REDACTED]. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. A group size of 6 is entitled to a [REDACTED] standard deduction. RFT 255 (October 2014), p. 1. Thus, MDHHS properly calculated Petitioner's standard deduction.

MDHHS budgeted [REDACTED] in earned income for Petitioner's FAP group. It was not disputed that the income was from a combination of Petitioner's children's employment. MDHHS provided little explanation to justify the amount budgeted.

MDHHS testimony indicated that they had no income verification when Petitioner's FAP eligibility was calculated on July 31, 2015. Per BAM 210, MDHHS should not have redetermined Petitioner's FAP eligibility without required verifications. Instead of income verifications, MDHHS budgeted Petitioner's group's income based on verbal statements of Petitioner.

For Petitioner's daughter, MDHHS testimony indicated [REDACTED] was budgeted. The amount budgeted appeared to be indicative of [REDACTED]. The amount budgeted was consistent with a Verification of Employment indicating Petitioner's daughter worked [REDACTED]. The amount budgeted was also consistent with Petitioner's daughter's pay history of [REDACTED] worked during a recent two week pay period. It is found that MDHHS properly budgeted Petitioner's daughter's income.

MDHHS testimony initially alleged Petitioner's son earned [REDACTED] in countable income. Such an income would be impossible if MDHHS factored a total group income of [REDACTED] and Petitioner's daughter earned [REDACTED] of the income. The amount budgeted for Petitioner's son's income can be deduced by taking the difference between total income budgeted and Petitioner's daughter's income; this amount is found to be [REDACTED]. This amount is in the ballpark of later MDHHS testimony that Petitioner's son earned [REDACTED] every two weeks. An analysis of Petitioner's son's income will also factor an analysis of a FAP benefit disqualification against him.

Petitioner testified that her August 2015 FAP eligibility was affected by an employment-related disqualification against her son. MDHHS testified that a group size of 6 persons was factored for August 2015; Petitioner did not dispute the FAP group size. An undisputed group size is indicative that Petitioner's son was not disqualified from receiving FAP benefits in August 2015.

Unfortunately, evidence was not presented that would definitively establish if and/or when Petitioner's son was disqualified. For purposes of this decision, it is presumed that MDHHS disqualified Petitioner's son in August 2015.

MDHHS presented testimony that Petitioner's son was disqualified for quitting a job. MDHHS testimony implied the disqualification was imposed after Petitioner submitted a Verification of Employment which stated that Petitioner's son quit his job.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance. BEM 230B (October 2013), p. 2. Non-deferred adults who are already working may not do any of the following:

- Voluntarily quit a job of 30 hours or more per week without good cause.
- Voluntarily reduce hours of employment below 30 hours per week without good cause.

Id.

MDHHS testimony alleged Petitioner's son worked 40 hours per week. MDHHS did not provide any evidence to support their testimony. Other testimony was supportive in finding that Petitioner's son worked much less than 40 hours per week.

If Petitioner's son made [REDACTED] (per a Verification of Employment), Petitioner's weekly work hours would average around 20 hours. It is found that Petitioner's son should not have been disqualified from receiving FAP benefits because his work hours were less than 30 hours per week.

As noted above, MDHHS factored Petitioner's son's income to be [REDACTED]. Also noted above, MDHHS budgeted the income based on Petitioner's verbal statements. Petitioner credibly testified that she reported that her son's employment income stopped. MDHHS had no first-hand knowledge to rebut Petitioner's testimony. Petitioner's testimony was consistent with a Verification of Employment sent to MDHHS in early August 2015, which stated Petitioner's job ended [REDACTED]. Based on presented evidence, it is found that MDHHS should have factored Petitioner's son's income to be [REDACTED].

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning MA benefits. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The actions of MDHHS are **REVERSED**.

MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. redetermine Petitioner's FIP eligibility, effective September 2015, subject to the finding that MDHHS improperly required verification of Petitioner's SSA appeal;
2. redetermine Petitioner's FAP eligibility, effective August 2015, subject to the following findings:
 - a. MDHHS improperly imposed an employment-related disqualification against Petitioner's son; and
 - b. MDHHS should have factored Petitioner's son's employment income to be [REDACTED]



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **10/27/2015**
Date Mailed: **10/27/2015**
CG/tm

