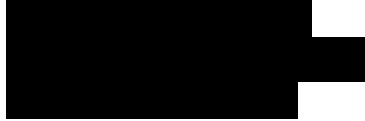


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-015504
Issue No.: 1010
Agency Case No.: [REDACTED]
Hearing Date: October 15, 2015
County: WAYNE PATHWAYS
TO POTENTIAL

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 15, 2015, from Detroit, Michigan. Petitioner represented herself. The Department was represented by [REDACTED], Pathways to Potential Success Coach, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's the Family Independence Program (FIP) case because she had exceeded the State 48-month lifetime limit on receipt of such 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. Petitioner was an ongoing recipient of FIP benefits who was deferred from participation in the Partnership.Accountability.Training.Hope. (PATH) program due to a disability.
2. On April 28, 2015, the Department sent Petitioner a medical review packet concerning her ongoing eligibility for a PATH deferral due to disability.
3. Petitioner timely completed and returned the medical packet and the packet was forwarded to the Medical Review Team (MRT).
4. On an unknown date, the Department sent Petitioner a Notice of Case Action notifying her that her FIP case was closing effective June 1, 2015, because she had exceeded the 48-month State limit on receipt of FIP benefits.

5. On August 21, 2015, Petitioner filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

It is first noted that a hearing request is timely only if submitted within 90 days of the date the notice of case action is sent. BAM 600 (April 2015), p. 6. However, in this case, the Department failed to provide a Notice of Case Action showing when Petitioner was notified of the FIP case closure. In the absence of such evidence, it is assumed that the hearing request was timely filed and the merits of Petitioner's FIP issue are addressed.

The Department did not provide the applicable Notice of Case Action showing the reason Petitioner's FIP case closed but explained in its hearing summary that the case closed because Petitioner exceeded the 48-month State time limit on the receipt of FIP assistance. BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for State-funded FIP cases for which no months were exempt. BEM 234 (July 2013), p. 4. The state counter begins October 1, 2007. MCL 400.57r.

Generally, for each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month towards the state time limit count. BEM 234, p. 4. However, there is an exemption from the state time limit count for those months between October 1, 2007, and September 30, 2011, in which the client received FIP and was deferred from participation in the work participation program for any reason and for those months from October 1, 2011 ongoing in which the client was deferred from the PATH program for (i) domestic violence; (ii) being 65 years of age or older; (iii) having a verified disability or long-term incapacity lasting longer than 90 days (including establishing incapacity); or (iv) being a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, p. 4; MCL 400.57p.

In support of its case that Petitioner had received more than 48 months of FIP under the State time limit count, the Department presented a Michigan FIP Time Limit chart showing the months Petitioner received FIP benefits, her work participation status each of those months, and whether the months were countable (Exhibit C). It is first noted

that the countable months since October 2007 identified on the chart number 43 months. Therefore, based on the information on the chart, as presented, the Department has failed to satisfy its burden of establishing that Petitioner received 48 months of FIP.

Furthermore, while the chart showed that Petitioner received FIP benefits for the eight months between August 2014 and March 2015 and was a mandatory PATH participant during this period, making those months countable, Petitioner testified that she was deferred from participation from the PATH program during this time due to a disability. The Department acknowledged that Petitioner was deferred from participating in PATH because of her disability. Although the Department appeared to argue that Petitioner was no longer eligible for a PATH deferral because her medical case was up for review before MRT, the state exemption continues to apply when a client is establishing incapacity. In this case, the Department testified that it sent Petitioner a medical review packet for completion on April 28, 2015, and acknowledged that Petitioner had returned the completed packet, which was then forwarded to MRT where it was pending. These facts establish that Petitioner should have been deferred on the basis of disability until a review packet was returned at which time she was eligible for a deferral for establishing incapacity. Under the evidence presented, the months between August 2014 and March 2015 were exempt from the State FIP time limit count. Therefore, the Department did not act in accordance with policy when it counted those towards Petitioner's State FIP time limit.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FIP case for exceeding the 48-month State time limit.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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

1. Revise Petitioner's Michigan FIP time limit chart to show that from August 2014 to March 2015 Petitioner was deferred from participation in the PATH program due to incapacitated to work and that those months are not countable;
2. Reinstate Petitioner's FIP case effective June 1, 2015; and

3. Issue supplements to Petitioner for FIP benefits she was eligible to receive but did not from June 1, 2015, ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/20/2015**

ACE/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

CC:

