

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-022373
Issue No.: 1001; 4001
Agency Case No.: ██████████
Hearing Date: January 20, 2016
County: Wayne-District 55
(Hamtramck)

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 January 20, 2015, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator, and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case?

Did the Department properly deny Petitioner State Disability Assistance (SDA) 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 participant in the FIP program who was deferred from participation in the PATH program due to a disability.
2. On October 13, 2015, the Department sent Petitioner a Medical Verification Checklist requesting verification of her medical condition by October 23, 2015 (Exhibit F).
3. The Department did not receive a response from Petitioner.

4. On November 12, 2015, the Department sent Petitioner a Notice of Case Action notifying her that (i) her FIP case was closing effective December 1, 2015 because “individual currently receives supplemental security benefits and is not included in the group” and (ii) she was approved for monthly SDA benefits of \$200 effective December 1, 2015 (Exhibit L).
5. On November 13, 2015, the Department sent Petitioner a Notice of Case Action notifying her that she was denied SDA for December 1, 2015 ongoing because she did not meet program requirements (Exhibit H).
6. On November 25, 2015, the Department received Petitioner’s request for hearing disputing the Department’s actions concerning her cash assistance under FIP and SDA.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Petitioner requested a hearing to dispute the closure of her cash assistance case. The November 12, 2015 Notice of Case Action had closed Petitioner’s FIP case effective December 1, 2015 but approved her for SDA benefits effective December 1, 2015. However, a November 13, 2015 Notice of Case Action was sent to her advising her that she was denied SDA effective December 1, 2015.

While the Notice of Case Action closing Petitioner’s FIP case indicated that the closure was based on ineligibility due to receipt of federal supplemental security benefits, at the hearing the Department explained that Petitioner’s FIP case closed because she had exceeded the 60-month federal limit for assistance and she had failed to timely submit medical verifications for either herself or her children. Under the FIP federal time limit,

individuals are not eligible for continued FIP benefits for their household once they receive a cumulative total of 60 months of federally-funded FIP benefits unless they are eligible for an exception to the federal time limit. BEM 234 (July 2013), p. 2.

In this case, Petitioner does not dispute the Department's testimony that she received 92 months of countable federal FIP assistance. At issue is whether she is eligible for an exception to the federal FIP time count and whether this exception continued under the evidence presented in her case. An exception to the federal time limit count applies to individuals who as of January 9, 2013 were (i) approved for FIP benefits **and** (ii) exempt from participation in the PATH program for reason of domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2.

In this case, although the Department failed to provide as requested a copy of the state and federal time limit counters showing each month Petitioner received FIP benefits, her PATH participation status, and any deferral basis, the Department acknowledged at the hearing that Petitioner received FIP benefits as of January 9, 2013 and at that time she was deferred from participation in the PATH program based on a disability. Therefore, she is eligible for an exception to the federal time limit.

The federal time limit exception ends for a person receiving FIP under the exception once the individual is no longer qualified for one of the listed PATH deferral reasons or no longer meets other standard eligibility criteria for FIP. BEM 234, p. 2. In this case, the Department contended that, because Petitioner alleged that she was disabled and two of her children were disabled, it sought to verify whether Petitioner was eligible for ongoing exemption from participation from the PATH program for reason of incapacity for more than 90 days or caring for a child with disability.

To be deferred from the PATH program for the reason of caring for a child with disability, a doctor/physician's assistant must verify the following in writing using a DHS-54A, medical needs, or DHS-54E, medical needs-PATH, form: (i) the disability of the child needing care and the extent and duration of the disability; (ii) the parent is needed in the home to provide care; and (iii) the parent cannot engage in employment-related activity due to the extent of care required. BEM 230A (May 2015), pp. 17, 23.

In this case, Petitioner argued that she only received one DHS-54E from the Department with her medical packet and was not aware that one had to be completed for her disabled children. The Department established that it sent multiple DHS-54E forms to Petitioner (Exhibit G) but none were returned. In light of Petitioner's failure to establish that a completed DHS-54E was sent to the Department showing that she was needed in the home to care for the children, the Department acted in accordance with policy when it concluded that Petitioner was not eligible for a deferral on the basis of having to care for a disabled child. Furthermore, additional evidence presented by the Department established that, although there two children in the home were disabled, as verified by their receipt of Supplemental Security Income (SSI), both children were in

school full-time. Because the children were in school full-time, the evidence showed that Petitioner would not be able to establish that she could not participate in employment activities because she was needed in the home to care for the child, the second criteria to establish the right to a deferral for carrying for a disabled child.

Because Petitioner also alleged that she was disabled, and the evidence showed that she was previously deferred from participation in PATH due to her disability, the Department also sought to establish whether Petitioner was eligible for an ongoing deferral due to her disability. To be deferred from the PATH program for reason of a disability, a client must provide to the Department a completed medical packet for the Department to forward to the Disability Determination Service (DDS) for assessment. BEM 230A, p. 12. The Medical Determination Verification Checklist to redetermine a disability requires the following verifications: (i) DHS-49-FR, Medical Social Questionnaire Update; (ii) DHS-1555, authorization to release protected health information; and (iii) verification of Social Security Administration application/appeal. BAM 815 (July 2015), pp. 5-6. A DHS-3975, reimbursement authorization, is also required if the SOLQ shows that the client has not been automatically coded for repayment. BAM 815, p. 5. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation. BEM 230A, p. 12.

In this case, the Department sent Petitioner a Medical Determination Verification Checklist with copies of the following documents for Petitioner to have completed and returned to the Department by October 23, 2015: DHS-1555; DHS-1552; DHS 49-I (eye examination report); DHS-49-G (activities of daily living); DHS-49-F (medical social questionnaire); DHS-49 (medical examination report); DHS-49-WH (work history questionnaire).

Petitioner testified that she was unable to obtain requested documents from her doctors by the due date and had requested an extension from her worker but did not receive a reply. However, there was no evidence that Petitioner submitted any of the documents to the Department that did not require completion by her doctors, specifically the DHS-49-F and the DHS-1555. While the Department could continue to process her PATH disability deferral without the medical documents, it could not proceed with the DDS process without those two documents. Because Petitioner failed to provide those documents, the Department acted in accordance with Department policy when it concluded that Petitioner lost her deferral from the PATH program.

Because Petitioner failed to verify that she was eligible for an ongoing PATH deferral due to her disability or due to her need to care for a disabled child in the home, she was no longer eligible for an exception to the federal time limit. Her failure to verify a disability or the need to care for a disabled child in the home would also make her ineligible for SDA benefits. BEM 261 (July 2015), pp. 1-2, 6.

Petitioner is advised that, because she is eligible for an exception to the federal time limit due to having been a recipient of FIP benefits in January 2013 with a PATH deferral reason of disability, she can reapply for benefits and will be eligible for FIP if she can establish that she meets one of the deferral reasons described above. See BEM 234, p. 2.

In this case, because Petitioner is no longer eligible for a PATH deferral and does not dispute that she exceeded the 60-month time limit for receipt of FIP benefits and she is not eligible for SDA, 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 acted in accordance with Department policy when it closed Petitioner's FIP case and denied her SDA benefits.

DECISION AND ORDER

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



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

Date Signed: **1/29/2016**

Date Mailed: **1/29/2016**

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]