



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 8, 2016
MAHS Docket No.: 15-023711
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jonathan Owens

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 February 16, 2016, from Detroit, Michigan. The Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Program Manager.

ISSUE

Did the Department properly terminate Family Independence Program (FIP) 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. The Petitioner reached the State 48 month time limit for receiving FIP benefits, as of December 2015. The Petitioner had received 98 months of FIP benefits, with 50 months being exempt.
2. On December 1, 2015, the Department issued a notice of case action indicating the Petitioner was eligible for continued FIP benefits through November 30, 2015.
3. On December 1, 2015, the Petitioner filed a hearing request indicating her FIP benefits had been cut off.

CONCLUSIONS OF LAW

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 Family Independence Agency) 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 to .3131. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The FIP benefit program is not an entitlement. BEM 234 (July 2013), p. 1. 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. BEM 234, p. 1. Effective October 1, 2011, 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, p. 1.

The 48-month lifetime limit for State-funded FIP cases allows exemption months in which an individual does not receive a count towards the individual's 48-month lifetime limit. BEM 234, p. 4. Exemption months are months the individual is deferred from the Partnership.Accountability.Training.Hope. (PATH) program for (i) domestic violence; (ii) being 65 years of age or older; (iii) 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. FIP benefits received prior to October 1, 2006, are **not** State-funded. BEM 234, pp. 3.

Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets an exemption criteria. BEM 234, p. 7.

In the instant case, the Petitioner did not dispute receiving the 48 months of FIP benefits. The Petitioner did not present any evidence to demonstrate that she had not reached or exceeded the State limit of 48 months of FIP. The Department presented documents and testimony demonstrating the Petitioner had reached the 48 month limit as of December 2015.

The Petitioner, however, filed her request for hearing after discovering her benefits were inactive in the month of December. The Petitioner testified she hadn't received any notice indicating that her FIP case was, in fact, closing. The Department presented a copy of a notice issued on December 1, 2015. (Exhibit 1, pages 12-13.) This notice simply noted the Petitioner's benefits continued through the month of November 2015. The notice did not indicate the Petitioner had reached the FIP limit and that her case would close.

The Department may or may not be required to issue a notice. Different case types and case actions may have differing requirements. In the instant case, the closure of a FIP case requires the Department to issue a timely notice prior to closure. (BAM 220, [October 2015], p, 4.) This notice should include the reason for closure, the policy cited, and appeal rights. The Department presented no evidence at hearing to demonstrate such a notice was issued.

The intent of a timely notice is to provide clients with time to react to the proposed case action. (BAM 220, p. 4.) The Department failed to allow the Petitioner in this case to react to the proposed case closure. The Petitioner should have been afforded the opportunity to request a hearing, and request that her benefits remain active until the completion of the hearing process. (BAM 600 [October 2015], p. 24.) The Petitioner did file a hearing request on December 1, 2015. In this request, she did indicate that she wished to continue benefits until the completion of the hearing process. The hearing form indicated if benefits were continued and ultimately the Petitioner was found to be ineligible for those benefits, those benefits would need to be repaid.

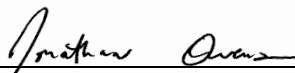
After reviewing the evidence and testimony presented, this Administrative Law Judge finds the Department did, in fact, fail to provide timely notice of the proposed case action. The Department terminated benefits prior to issuing a timely notice. Further, the Petitioner's case remained closed while waiting for a hearing, even though she had requested that her benefits remain on. However, while the Department did fail to give timely notice, and this lack of notice ultimately led to benefits remaining closed through the hearing process, the Petitioner is ineligible for benefits.

This Administrative Law Judge is unable to fashion a remedy that would rectify the error made by the Department. Awarding benefits to a Petitioner who failed to dispute the Department's conclusion that she had received the allotted 48 months of FIP benefits she was eligible to receive, based upon the above error, would be an equitable remedy. While this Administrative Law Judge can sympathize with the Petitioner regarding the abrupt end of benefits, the Petitioner is clearly ineligible for FIP benefits beyond what she has already received.

DECISION AND ORDER

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

JO/tm



Jonathan Owens
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

Petitioner

[REDACTED]

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