



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 10, 2016
MAHS Docket No.: 16-012540
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on October 12, 2016, from Flint, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator. Department Exhibit 1, pp. 1-76 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's FIP application for meeting 48 month state time limit?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 11, 2016, Petitioner applied for Family Independence Program (FIP) benefits.
2. On August 19, 2016, the Department denied Petitioner's application because Petitioner was over the 48-month time limit for FIP.
3. On August 29, 2016, Petitioner requested hearing disputing the denial of FIP benefits.

4. The Medical Review Team found Petitioner Work Ready with limitations on October 30, 2014. (Dept. Ex.1 p.20.)
5. Beginning January 2015, Petitioner's receipt of FIP benefits were countable months due to the MRT decision of work ready with limitations. FIP months were countable until August 2015.
6. On May 24, 2016, a DHS-1555 Authorization to Release Protected Health Information and a DHS-49-F Medical Social Questionnaire were sent to Petitioner via central print. (Dept. Ex. 1, p.68).
7. Beginning May 2016, Petitioner's receipt of FIP benefits were countable months because MRT forms were sent to Petitioner and were not returned and "Establishing Incapacity" was removed.

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

State Time Limit Exemptions

The state time limit allows exemption months in which an individual does not receive a count towards the individual's state time limit. However, the federal time limit continues, unless the exemption is state funded.

Effective Oct. 1, 2011, exemption months are months the individual is deferred from PATH for:

- ☐ Domestic violence.
- ☐ Age 65 and older.
- ☐ A verified disability or long-term incapacity lasting longer than 90 days.

Note: This includes the deferral reason of establishing incapacity. BEM 234

Deferral Not Granted

Do all of the following when a request for deferral is not granted:

Document the basis of the decision including any limitations or restrictions in the FSSP under the Barriers and Referrals tab.

Inform the individual that he/she did not meet the criteria for the deferral and that he/she will be required to participate in PATH.

Refer the client to PATH as outlined in BEM 228, providing information on any limitations to full participation using Other MWA Referral Comments on the Employment Services Detail Screen.

Advise the client of his/her right to:
Discuss the deferral decision with a supervisor.

File a grievance with the one-stop service center if he/she disagrees with the activities assigned at PATH.

File a hearing regarding denial of support services such as transportation assistance, child care assistance, decrease in benefits.

When a deferral is not granted, it is not a loss of benefits, termination or negative action. When a client requests a hearing based on not being granted a deferral, be sure to advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. Be sure the client understands the time to file a hearing is once he/she receives a Notice of Case Action for noncompliance. BEM 230A

The client or authorized representative must sign the DHS-1555, Authorization to Release Protected Health Information, to request existing medical records. This form is mandatory. BAM 815

In this case, Petitioner stated at hearing that he was only disputing that any months were countable for the purposes of FIP time limits from January 2015 going forward. Petitioner argued that he should have been deferred because he was "establishing incapacity" as defined in BEM 234 during the months in question. The Department asserted that the months of January 2015 through August 2015 were countable because the Medical Review Team found Petitioner work ready with limitations and he was referred back to PATH and he did not report. Petitioner questioned whether the Medical Review Team had a complete packet and disputed whether correct processes were followed in the finding of "work ready" by the Medical Review Team. Specifically, Petitioner asserted that DHHS forms 49-F and 1555 were not sent to him and were not part of the documents reviewed by the Medical Review Team. The Medical Review Team found Petitioner Work Ready with limitations on October 30, 2014. The Department argued at hearing that the Medical Review Team had enough information to make their October 2014 determination because there was an MRT packet that was completed in January 2014 that had enough medical information. The Department

argued that if the MRT needed any additional information that would have been provided on the forms in question they would have requested the information prior to making their decision.

Department policy is clear that a denial of deferral by the Medical Review Team because of a finding of "work ready with limitations" is not a denial of benefits and Petitioner is not entitled to a hearing on that issue and the undersigned administrative law judge has no jurisdiction to address the denial of the deferral. BEM 230A. Petitioner had an opportunity in October 2014 to let his FIP benefits close and attempt to establish good cause for failing to participate with PATH but he chose not to pursue that.

On May 24, 2016, a DHS-1555 Authorization to Release Protected Health Information and a DHS-49-F Medical Social Questionnaire were sent to Petitioner via central print. (Dept. Ex. 1, p.68). Beginning May 2016, Petitioner's receipt of FIP benefits were countable months because MRT forms were sent to Petitioner and were not returned and "Establishing Incapacity" was removed. This was proper and correct and consistent with Department policy. BAM 815

The Department provided sufficient proof that Petitioner received FIP for 48 countable months and therefore denial of his FIP application for exceeding the FIP time limits was proper and correct. BEM 234.

DECISION AND ORDER

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 denied Petitioner's FIP application because he was over the Michigan FIP Time Limits.

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

AM/mc



Aaron McClintic
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

DHHS

[REDACTED]

Petitioner

[REDACTED]