



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

██████████  
██████████  
██████████

Date Mailed: September 7, 2017  
MAHS Docket No.: 17-008832  
Agency No.: ██████████  
Petitioner: ██████████

**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 September 5, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, specialist.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) 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 recipient.
2. Through ██████████, Petitioner received FIP benefit months in 123 federally-funded countable months since ██████████.
3. Petitioner was deferred from work-related activities due to a long-term disability.
4. In approximately ██████████ the Social Security Administration (SSA) denied Petitioner's claim of disability.
5. Petitioner did not appeal SSA's denial of disability-related benefits.

6. On [REDACTED], MDHHS mailed Petitioner a Notice of Case Action terminating Petitioner's FIP benefit eligibility, effective [REDACTED], due to Petitioner exceeding the federally funded FIP benefit limit.
7. On [REDACTED], Petitioner requested a hearing to dispute the termination of FIP benefits.

### **CONCLUSIONS OF LAW**

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 to dispute a termination of FIP benefits. MDHHS presented a Notice of Case Action (Exhibit A, pp. 1-4) dated [REDACTED]. The notice informed Petitioner of a termination of FIP benefits, effective [REDACTED]. The basis for termination was that Petitioner exceeded the lifetime limits for receiving FIP benefits.

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. *Id.*

Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. *Id.* 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 Oct. 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.*, p. 2.

MDHHS presented a history of Petitioner's countable federally-funded FIP months (Exhibit 1, pp. 5-8). The history listed Petitioner as receiving a total of 123 months of federally-funded FIP benefits since [REDACTED]. The most recent month listed was [REDACTED]. The second-most recently listed month was [REDACTED]. The history was consistent with the presented Notice of Case Action which stated Petitioner received 122 countable months as of [REDACTED].

Petitioner did not dispute that she surpassed the lifetime countable months to receive FIP benefits. Petitioner instead contended that she was exempt from the count because of a long-term 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 [REDACTED]:

- 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. [or]
  - Care of a child with disabilities.

*Id.*, p. 2.

Any month that an individual's FIP assistance is state funded is not a countable month toward the federal time limit count. *Id.*, p. 3. To meet the goals of the Family Independence Program, in a limited number of cases, the department has determined to state fund cases with... a FIP group that has a parent deferred from PATH due to a verified disability or long-term incapacity lasting longer than 90 days; see BEM 230A... *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.*

Unrebutted MDHHS testimony indicated Petitioner had received FIP benefits since [REDACTED]. Given Petitioner's FIP history, MDHHS likely deferred Petitioner from PATH participation beginning [REDACTED] because of Petitioner's claim of long-term disability. The deferral allowed Petitioner to continue receiving FIP benefits despite exceeding lifetime limits.

It can be presumed that MDHHS recently ended Petitioner's deferral from PATH, thus, causing Petitioner's FIP eligibility to end due to excessive countable federally-funded FIP months. It must be determined if the change to Petitioner's PATH deferral was proper.

BEM 230A and BAM 815 outline the process for evaluating claims of long-term disability. In short, MDHHS is to request various medical documents from clients and send the documents to Disability Determination Services (DDS) for determination of whether a medical deferral will be granted. Clients claiming long-term disability are also required to apply for benefits with SSA.

MDHHS provided no evidence that a DDS evaluation was ever performed. Consideration was given to reversing the FIP termination due to MDHHS' failure to comply with their procedural requirements in evaluating Petitioner's ongoing claim of

long-term disability. Ultimately, it is found that a DDS medical evaluation was not necessary.

If a client's previous DDS and/or SSA medical determination was not approved, the client has to prove a new or worsening condition in order to start the medical determination process again. BAM 815 (January 2017), p. 7. [MDHHS is to] request a DHS-49 for physical conditions and a DHS-49-D/E for mental health conditions. *Id.*

Unrebutted MDHHS testimony indicated Petitioner most recently applied for SSA benefits on [REDACTED]. Petitioner testimony conceded her application from [REDACTED] for SSA benefits followed shortly after SSA issued an administrative decision finding Petitioner to be not disabled. Petitioner's choice to not appeal SSA's unfavorable decision back in [REDACTED] rendered the disability finding to be "final" (see BEM 260). The "final" determination of disability by SSA effectively ended Petitioner's basis for PATH deferral based on long-term disability.

It is not relevant that Petitioner may have immediately reapplied for SSA benefits after SSA denied her application, perhaps based on worsened or different conditions. Petitioner stopped qualifying for the PATH deferral once SSA's determination was finalized (i.e. Petitioner's time to appeal ended). Petitioner's PATH deferral cannot be resurrected by restarting the disability application process with SSA.

It is slightly curious that MDHHS waited 2-3 years to change Petitioner's status as a client deferred from PATH participation. The delay by MDHHS in changing Petitioner's PATH status is neither against MDHHS policy nor unjust to Petitioner. The only apparent result of MDHHS' delay was that MDHHS allowed Petitioner to receive FIP benefits approximately 2 years longer than necessary.

It is found that MDHHS properly terminated Petitioner's PATH deferral. It is further found that MDHHS properly terminated Petitioner's FIP eligibility due to Petitioner exceeding lifetime limits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FIP eligibility, effective [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf

  
\_\_\_\_\_  
**Christian Gardocki**  
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]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]