



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: January 18, 2019  
MAHS Docket No.: 18-010050  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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; 42 CFR 438.400 to 438.424; 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 January 9, 2019, from Inkster, Michigan. Petitioner appeared and was represented by her attorney, [REDACTED]. The Michigan Department of Health and Human Services (MDHHS) was represented by Tonya Jeter, assistant attorney general. Kisa Webber, PATH specialist, and Stephanie Laster-Williams, employment and training coordinator, testified on behalf of MDHHS.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's eligibility for 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. At all relevant times, Petitioner was the caretaker to a minor child born November 28, 2000 who was disabled due to autism.
2. At all relevant times, Petitioner was an ongoing FIP recipient. Petitioner was deferred from PATH participation due to caring for a disabled child.
3. On June 29, 2018, MDHHS received medical documentation from Petitioner verifying that Petitioner was caring for a disabled child. Exhibit A, pp. 1-2

4. On August 2, 2018, MDHHS received a Medical Needs- PATH form from Petitioner which documented a claim of a 4-week disability. Exhibit A, pp. 4-5
5. On an unspecified date, MDHHS ceased Petitioner's basis for PATH deferral from caring for a disabled child to a short-term incapacity.
6. On September 11, 2018, MDHHS terminated Petitioner's FIP eligibility, effective October 2018. The stated basis for termination was due to Petitioner reaching the lifetime limit of countable FIP benefit months. Exhibit A, pp. 7-10.
7. On September 21, 2018, 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, 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. 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 beginning October 2018. A Notice of Case Action dated September 11, 2018, stated that MDHHS terminated Petitioner's FIP eligibility beginning October 2018 because Petitioner received the lifetime limit for receipt of 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 Petitioner's TANF/FIP history. Exhibit A, pp. 20-23. The history listed 61 months of countable FIP benefits. Notably, no months between July 2016 and August 2018 were counted. This is notable because Petitioner received ongoing FIP benefits for at least a portion of this time and the months were not counted in

Petitioner's FIP limits. Presumably, Petitioner was able to receive FIP benefits due to her status as a caretaker to a disabled child.

Michigan will provide an exception to the federal month time limit and state fund the FIP eligibility determination. *Id.*, p. 2. The exception applies to individuals who met the following criteria on January 9, 2013:

- Exempt from PATH due to domestic violence
- Age 65 or older
- Establishing incapacity
- Incapacitated more than 90 days
- Caring for a disabled spouse
- Caring for a disabled child. *Id.*

The exception ends once one of the above individuals no longer qualifies for one of the above deferral reasons or they do not meet FIP requirements. *Id.*

The evidence established that Petitioner was deferred from PATH due to status as a caretaker to a disabled child. Petitioner's deferral continued through July 2018. MDHHS contended that Petitioner's deferral from PATH and exemption to the federal count of FIP benefit months ended once Petitioner submitted documentation on August 2, 2018, claiming a 4-week disability. MDHHS continued Petitioner's deferral from PATH for four weeks but ended Petitioner's exemption to the federal count.

MDHHS contended that Petitioner's 4-week disability justified stoppage of a deferral based on caring for a disabled child. The MDHHS contention fallaciously assumes that persons who have physical and/or mental limitations preventing employment are unable to care for a disabled child. No known law, regulation, or policy is known to support such a conclusion. Assuming Petitioner was disabled for four weeks, MDHHS should not have been assumed that Petitioner was unable to continue caring for her autistic child.

MDHHS also justified the termination of Petitioner's FIP eligibility in reference to their computer system, Bridges. MDHHS contended that the termination of Petitioner's eligibility was justified because Bridges would not allow a change of deferral from Petitioner's temporary disability back to a deferral based on caring for a disabled child. If Petitioner's only basis for PATH deferral was a 4-week disability, then MDHHS and their database would have properly denied Petitioner further deferral because Petitioner would not have had a continued basis for an exception to the federal time limit. As discussed above, Petitioner's 4-week deferral based on disability did not justify the end of her ongoing deferral based on caring for a disabled child.

Given the evidence, MDHHS improperly ended Petitioner's deferral of caring for a disabled child. Without MDHHS improperly ending Petitioner's deferral reason, Petitioner would have continued to receive FIP benefits for being exempted to the federal count. Thus, MDHHS improperly concluded that Petitioner exceeded FIP lifetime limits when terminating Petitioner's FIP eligibility.


**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility beginning October 2018;
- (2) Recalculate Petitioner's eligibility subject to the finding that MDHHS erroneously ended Petitioner's deferral reason (caring for a disabled child) in July 2018; and
- (3) Supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/cg

  
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**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) 763-0155; 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

**Via Email:**

MDHHS-Wayne-19-Hearings  
AG-HEFS-MAHS  
B. Sanborn  
B. Cabanaw  
BSC4- Hearing Decisions  
MAHS

**Petitioner –  
Via First-Class Mail:**

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**Counsel for Petitioner –  
Via First-Class Mail:**

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