



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: February 24, 2017  
MAHS Docket No.: 17-000898  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 21, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Karina Littles, Eligibility Specialist, and Michelle Trawick, Family Independence Manager.

### **ISSUE**

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

### **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 was an ongoing recipient of FIP benefits and was deferred from attending work first.
2. The Petitioner was erroneously sent a request for verification Medical Determination Verification Checklist (MDVCL) on November 4, 2016, due November 14, 2016, which the Department agreed did not need completing and was sent in error and that Petitioner was approved for deferral by the Medical Review Team (MRT) at the time it was sent. Exhibits H and I.

3. The MDVCL, which was sent to the Petitioner, was blank, contained no due date and did not have any of the boxes for requested information checked. Petitioner Exhibit 1. The Department agreed that the form was blank that was sent to the Petitioner. The Department's copy of the MDVCL for November 4, 2016, was not blank; and the Department could not explain the discrepancy as both forms were dated for November 4, 2016.
4. The Petitioner, when she received the November 4, 2016, MDVCL and Medical Needs Partnership.Accountability.Training.Hope. (PATH) form, called her caseworker and was advised by her caseworker not to complete the verification of medical needs as it was sent in error.
5. The Bridges System sent a PATH Appointment Notice to the Petitioner because the November 4, 2016, MDCVL was not returned.
6. The Department incorrectly terminated the deferral of Petitioner from PATH participation due to failure to complete the MDVCL that she was advised was sent in error and to not complete.
7. The Department's records showed that the Petitioner had been deferred by MRT from PATH since August 1, 2013, and continued to be deferred from PATH from August 2015 based on a submission to MRT for June 2015. Thereafter, medical proofs were sent to MRT on January 2016 and June 2016 with no change in deferral status for Petitioner who remained deferred. Exhibit I.
8. The Petitioner was sent a PATH Appointment Notice to attend PATH on December 12, 2016. The Petitioner did not attend. Exhibit B.
9. The Department sent the Petitioner a Notice of Noncompliance on December 22, 2016, for January 3, 2017, for failing to attend the PATH Appointment. Exhibit C.
10. The Department sent a Notice of Case Action on December 22, 2016, closing the Petitioner's FIP case effective February 1, 2017, for failure to participate in the PATH Program and imposed a sanction of 3 months. Exhibit D.
11. At a triage held on January 3, 2017, the Department gave the Petitioner good cause realizing that it should not have sent a PATH Notice and sent the Petitioner a new MDVCL on January 13, 2016.
12. When the Department sent the PATH Notice to Petitioner on December 12, 2016, it incorrectly ended the Petitioner's medical deferral.
13. Throughout the period the Petitioner was deferred from PATH and all medical packets were returned to the MRT and at the time of the triage, the Petitioner was still in deferred status and should have been. Exhibit I.

14. On January 5, 2017, the Department sent a Notice of Case Action closing the Petitioner's FIP case for the reason that the Petitioner had received FIP for 60 countable months as of January 1, 2017, and had reached the end of the time allowed for eligibility. Exhibit E.
15. The Petitioner requested a timely hearing on January 13, 2017, protesting the Department's actions

### **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.

In this case, the Department conceded that it ended the Petitioner's PATH deferral incorrectly; and the deferral should have continued ongoing. At the time, the deferral was accidentally ended by the Department due to the Petitioner's caseworker improperly sending a MDVCL on November 4, 2016, even though the Petitioner was deferred from PATH ongoing. In addition, the Petitioner after receiving the blank MDVCL dated November 4, 2016, contacted her caseworker and was advised that it was sent in error and that she did not need to complete it. These facts are uncontested by the Department which conceded the Petitioner's deferral was ended in error when the Bridges System sent the PATH Notice because MDVCL was not returned by Petitioner. Exhibit I. Even though a Help Desk Ticket was requested, the deferral was not reinstated.

The Petitioner's case was ultimately closed for exceeding the 60-month FIP time limit when her deferral ended and the Federal FIP counter began counting the Petitioner's FIP as a regular issuance. Exhibit F. The Department also observed that the Federal Temporary Assistance to Needy Families (TANF) time-limit counter did not appear correct as it did not reflect the deferral ongoing from 2011. The Petitioner, because she was sent to PATH, began to receive a regular issuance even though she was deferred. Once the Petitioner's deferral ended, the FIP counter resumed counting months commencing in December 2016 and January 2017 which was the 60<sup>th</sup> month. Ironically, the Department, after the triage, sent another packet to the MRT; and the Petitioner was once again deferred.

Department policy regarding Federally Funded FIP is found in BEM 234 and provides:

On Oct. 1, 1996, Michigan began the Family Independence Program.

The Family Independence Program (FIP) is not an entitlement.

FIP requires an individual to meet all eligibility criteria required for the receipt of federal or state funds or determined necessary by the department to accomplish the goals of the program.

#### **FEDERAL TIME LIMIT**

Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. 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. The begin date for the federal time limit counter is Oct. 1, 1996.

#### **Federal Countable Month**

Each month an individual receives federally funded FIP, the individual receives a count of one month. A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit.

#### **Federal Time Limit Exception**

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 Jan. 9, 2013:

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.

Care of a child with disabilities.

The exception continues as long as:

The individual's ongoing FIP EDG reaches 60 TANF federal months **and** the individual remains one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.

The individual, at application, is approved as **any** of the above employment deferral reasons. In these instances, the FIP EDG will be state funded.

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. The FIP EDG will close or the application will be denied. BEM 234 (July 1, 2013), pp. 1-2.

In this case, because the Department improperly ended the deferral of Petitioner by their own admission, for failure to complete an MDVCL, which should not have been sent and which Petitioner was told not to complete by the Department and which was issued in error, the Department did not comply with Department policy and thus, must correct its actions. There was no evidence that the medical verifications were necessary based upon any review requirement mandated by Department policy or expiration of the deferral requiring a new verification. See also Exhibit I. BEM 233A allows for sending a client back to PATH only if no verifications are received when the Petitioner must verify disability lasting longer than 90 days. In this case, this policy does not apply as the Petitioner was deferred and no verification was necessary.

### **DECISION AND ORDER**

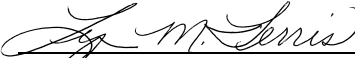
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it ended the Petitioner's PATH deferral and closed the Petitioner's FIP case for exceeding the TANF 60-month time limit.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Petitioner's FIP case.
2. The Department shall reinstate the Petitioner's FIP medical deferral from PATH beginning November 1, 2016.
3. The Department shall supplement the Petitioner for FIP benefits the Petitioner is otherwise entitled to receive in accordance with Department policy.

LMF/jaf



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**Lynn M. Ferris**  
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**

David Garnes  
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**Petitioner**



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