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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

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DIRECTOR

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██████████, MI ██████████

Date Mailed: August 30, 2021  
MOAHR Docket No.: 21-003576  
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; 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, a hearing was held via telephone conference line on August 26, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Juanita Muñoz, hearings facilitator.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility due to exceeding time limits.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2013, Petitioner was a disabled recipient of Supplemental Security Income (SSI) and FIP benefits.
2. As of July 2021, Petitioner remained a disabled recipient of SSI and FIP benefits.
3. On July 16, 2021, MDHHS terminated Petitioner's FIP eligibility beginning August 2021 due to excess income.
4. On ██████████ 2021, Petitioner requested a hearing to dispute the termination of FIP benefits.

## CONCLUSIONS OF LAW

The Family Independence Program 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. MDHHS 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. Exhibit A, pp. 3-4. A Notice of Case Action dated July 16, 2021, stated that Petitioner's FIP eligibility would end due to Petitioner exceeding the 60 month time limit to continue receiving FIP benefits. Exhibit A, pp. 8-11.

The FIP benefit program is not an entitlement. BEM 234 (January 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.*

On October 1, 2007, Michigan law reduced the cumulative total of FIP to 48 months during an individual's lifetime. *Id.* Notwithstanding, under FIP, a family is not eligible for assistance beyond 60 consecutive or non-consecutive federally funded months. *Id.* Federally funded countable months began to accrue for FIP on October 1, 1996. Each month an individual receives federally funded FIP, the individual receives a count of one month. *Id.* A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. *Id.*

Documentation of Petitioner's FIP history listed 117 countable federal months for Petitioner as of March 2013. Exhibit A, pp. 12-15. Petitioner did not dispute the count. Notably, MDHHS continuously issued FIP benefits to Petitioner after March 2013 despite Petitioner exceeding time limits. Presumably, Petitioner continued to receive FIP benefits under an exception to the time limits.

MDHHS will fund FIP benefits with state funds if an individual qualifies for an exception to the time limits. *Id.*, p. 2. One exception is being exempt from employment-related activities as of January 9, 2013, due to an incapacity lasting longer than 90 days.<sup>1 2</sup> *Id.* The exception continues as long as the individual remains in an employment deferral status. *Id.*

Petitioner testified that he has been disabled and received SSI since before January 2013. MDHHS presented no evidence alleging otherwise. Given Petitioner's consistent disability since before 2013, MDHHS should have continued Petitioner's exception for

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<sup>1</sup> Other exceptions include domestic violence, being aged 65 years or older, caring for a disabled child, or caring for a disabled spouse.

<sup>2</sup> MDHHS policy specifically references "incapacity". "Incapacity" is not known to be defined by policy but is presumed to be interchangeable with disability.

receiving FIP benefits despite exceeding time limits. Accordingly, the termination of Petitioner's FIP eligibility was improper. As a remedy, Petitioner is entitled to a reinstatement of FIP benefits.<sup>3</sup>

### **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. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility beginning August 2021 subject to the finding that Petitioner was eligible for a time limit exception based on disability since January 9, 2013; and
- (2) Issue notice and/or benefit supplements in accordance with policy.

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

CG/tm



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**Christian Gardocki**

Administrative Law Judge

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<sup>3</sup> The FIP termination notice also indicated that one of Petitioner's children was no longer an eligible group member after graduating high school. This issue is not addressed within the hearing decision. Presumably, MDHHS will reinstate Petitioner's FIP eligibility at a lesser amount due to the exclusion of the child. If MDHHS does so, Petitioner retains his right to request a hearing after receiving notice of the anticipated reduction.

**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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Wayne-41-Hearings  
D. Sweeney  
G. Vail  
BSC4  
MOAHR

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

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