

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2013-29494
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received by the Department of Human Services (Department) on February 6, 2013. After due notice, a telephone hearing was held on June 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department (Department) included [REDACTED]

ISSUE

Whether the Department properly determined that Claimant has exceeded the lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception to the 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. Claimant was an ongoing recipient of FIP benefits.
2. On January 31, 2013, the Department notified Claimant that her FIP benefits would close effective March 1, 2013, ongoing, because she had exceeded the 48-month lifetime limit for state-funded FIP assistance as of February 1, 2013. Exhibit 1.
3. On February 6, 2013, the Department received Claimant's Request for Hearing, disputing the Department's action. Exhibit 1.

CONCLUSIONS OF LAW

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013), p. 1. Under the state FIP time limit, effective October 1, 2011, BEM 234 states that individuals are not eligible for continued FIP benefits once they receive a cumulative total of 48 months of FIP benefits. The 48-month lifetime limit for state-funded FIP cases allows exemption months in which an individual does not receive a count towards the individual's 48-month lifetime limit. BEM 234. Exemption months are months the individual is deferred from PATH for: (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability of long-term incapacity lasting longer than 90 days; or (iv) a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234 (January 1, 2013), p. 1; MCL 400.57a (4); Bridges Federal Time Limit Interim Bulletin (BPB) 2013-006 (March 1, 2013), p. 1.

In this case, Claimant was an ongoing recipient of cash assistance. At the hearing, the Department presented as evidence the Michigan FIP Time Limit document which showed that Claimant had exceeded the 48-month lifetime limit for state-funded FIP assistance as of February 1, 2013. Exhibit 1. Thus, on January 31, 2013, the Department notified Claimant that her FIP case would close effective March 1, 2013, ongoing, because she had exceeded the 48-month lifetime limit for state-funded FIP assistance as of February 1, 2013. Exhibit 1.

At the hearing, Claimant testified that she was participating in the work participation program for the last seven to eight months. However, Claimant testified that she notified the Department on previous applications that she was a parent who provides care for a child with verified disabilities living in the home. Additionally, Claimant provided documents showing that her child is eligible to receive services under the Children's Special Health Care Services (CSHCS) from the Michigan Department of Community Health. Exhibit A. Claimant also provided her child's medical diagnosis and Claimant's school schedule. Exhibit A. Claimant also indicated that her child is not receiving Social Security disability. Nevertheless, Claimant is contesting that she should be deferred from the FIP program and continue to receive benefits due to her taking care of her child with verified disabilities living in the home.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in PATH or other employment-related activity unless temporarily deferred or

engaged in activities that meet participation requirements. BEM 230A (January 2013), p. 1. However, non-WEIs are FIP clients who do not count in the state's work participation rate. BEM 230A, p. 14. Non-WEIs do not have required hours. BEM 230A, p. 14. Non-WEIs are not required to participate in work-related activities for a minimum number of hours, but must complete a FAST and FSSP. BEM 230A, p. 14. Instead, non-WEIs should engage in other activities to strengthen the family or improve self-sufficiency skills. BEM 230A, p. 14. Non-WEIs include a spouse or parent who provides care for a spouse or child with disabilities living in the home and is not referred to PATH if the spouse/child with disabilities lives with the spouse/parent providing care and a doctor verifies a list of requirements as set forth in BEM 230A. BEM 230A, p. 20.

At the hearing, the Department presented as evidence the medical information sections of Claimant's three previous benefit applications. See Exhibit 2. These sections would have indicated whether Claimant notified the Department if Claimant was a parent who provides care for a child with disabilities living in the home. Claimant's testimony indicated that she did notify the Department on previous occasions. The first application was dated November 16, 2009, and Claimant did not list on the application anyone caring for a child with a disability in the home. See Exhibit 2. Moreover, Claimant did not answer the question that asked whether the caregiver is able and available to work in addition to caring for someone. See Exhibit 2. The second application was dated August 10, 2012, and Claimant did indicate on that application that she was providing care for a child with a disability in the home. See Exhibit 2. However, Claimant indicated that she is the caregiver and available to work in addition to caring for someone on that application. See Exhibit 2. The third application was dated September 24, 2012, and Claimant did indicate on that application that she was providing care for a child with a disability in the home. See Exhibit 2. However, Claimant did not answer the question that asked whether the caregiver was able and available to work in addition to caring for someone. See Exhibit 2.

Based on the foregoing information, the Department properly did not defer Claimant from the PATH program due to her providing care for a child with a disability living in the home. Moreover, the Department presented evidence that Claimant had exceeded the 48-month lifetime limit for state-funded FIP assistance as of January 1, 2013. Exhibit 1. First, a review of the previous applications indicated that Claimant was still able to work in addition to caring for a child with a disability. See Exhibit 2. Second, Claimant testified that she was fully participating in the work participation program for the last seven to eight months when her child was at home with a disability. Third, the Department presented Claimant's Michigan FIP Time Limit which indicated that Claimant was fully participating in the PATH program since May of 2011. See Exhibit 1.

Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP benefits effective March 1, 2013, ongoing, because Claimant had reached the 48-month lifetime limit for state-funded FIP assistance. Additionally, the Department properly did not defer Claimant from the PATH program due to Claimant fully participating in the work participation program when her child was at home with a disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, decides that the Department

did act properly.

did not act properly.

Accordingly, the Department's FIP eligibility determination is

AFFIRMED. REVERSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 11, 2013

Date Mailed: June 11, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

2013-29494/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/pf

cc:

