

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201332309
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: April 4, 2013
County: Wayne County (#31)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 15, 2013. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday April 4, 2013. The Claimant appeared and testified. Participants on behalf of the Department included [REDACTED] (JET Worker) and [REDACTED] (Eligibility Specialist).

ISSUE

Whether the Department properly determined that the Claimant has exceeded the state 48 months lifetime limit on Family Independence Program (FIP) assistance?

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 Claimant was an ongoing FIP recipient.
2. The Department determined that the Claimant reached the 48 month lifetime limit on the receipt of state-funded FIP assistance. (Exhibit 1)
3. The Department determined that the Claimant accumulated 172 months of federal-funded FIP assistance which exceeded the 60 month lifetime limit. (Exhibit 2).
4. On February 15, 2013, the Department notified the Claimant of the closure due to exceeding the 48 month lifetime limit on state-funded FIP assistance.

5. On February 15, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action.

CONCLUSIONS OF LAW

The Department of Human Service (DHS) policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). Clients have the right to contest a Department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. The Department Bridges Administrative Manual (BAM) 600 (February 1, 2013). The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code (Mich Admin Code), R 400.901-400.951.

The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self sufficiency. It 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 (formerly known as the Family Independence Agency) 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.

The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013). 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. BEM 234. Michigan operates the FIP Program by using both federal and state funds. On 10/1/2007, Michigan law reduced the cumulative total of FIP benefits to 48 months during an individual's lifetime for state funded benefits. Notwithstanding, under the FIP program, a family is not eligible for assistance beyond 60 months when a mandatory group member receives federally funded benefits. Federally funded countable months began to accrue for FIP on 10/1/1996. Each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month. A family is no longer eligible for FIP when a mandatory group member in the program group reaches the 48-month state time limit. BEM 234.

The state time limit allows exemption months in which an individual does not receive a count towards the individual's 48-month lifetime limit. BEM 234. Effective October 1, 2011 exemption months are months an individual is deferred from participating in the Work Participation Program for either of the following: (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. From October 1, 2007 to September 30, 2011 exemption months were any months an individual was deferred from the Work

Participation Program. Once an individual reaches a FIP time-limit whether state or federal the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets an exemption criteria based on the funding source. BEM 234.

In the present case, the Department performed a mass update as the result of the outcome of a lawsuit involving the federal and state time-limit maximums for FIP assistance was held not unconstitutional by the courts. Claimant testified that she disagrees with the Department's count of her state funded benefits because she should have more exemption months than were attributed. According to the summary of state FIP time-limit count the Claimant was given only 10 exemption months for being deferred from the Work Participation Program from December 2009 through August 2010. (see Exhibit 1) Claimant testified credibly that she suffered a gun shot wound to the head and was disabled for a longer period than 10 months. She provided the necessary medical documentation to the Department to support the disability. In addition, in December 2012, she was deferred from the Work Participation Program after submitting medical documentation due to pregnancy. The Department representative acknowledged that the Claimant was in fact deferred from the Work Participation Program at the time of case closure. Notably, the FIP time-limit summary document indicates the Claimant was a mandatory participant from December 2012 through February 2013, rather than in a deferred status. Evidence indicates that the Department may not have accurately identified the Claimant's work participation status for several months which affected the number of exemption months attributed to the Claimant, and ultimately the count towards the state time-limit for receipt of state funded FIP benefits.

The Department has the burden of proof; and in light of the foregoing, the Department has not established by a preponderance of the evidence that the Claimant reached the lifetime FIP time-limit maximum for stated funded benefits. Accordingly, the Department's action is not upheld.

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, finds that the Department did not establish it act in accordance with policy when it closed Claimant's FIP benefits effective March 1, 2013 for reaching the 48 month lifetime limit for state funded FIP assistance.

Accordingly, the Department's FIP eligibility determination is hereby, **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure March 1, 2013 and supplement for lost FIP benefits (if any)

that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.

2. The Department shall review the case to determine that the appropriate work participation status was recorded for each month counted toward the state time-limit, and whether all applicable exemption months were applied in accordance with policy.
3. The Department shall notify the Claimant of the FIP time-limit determination after the case review in accordance with Department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/10/2013

Date Mailed: 4/10/2013

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 effect the substantial rights of the claimant:
 - the 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
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

