

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

IN THE MATTER OF:



Reg. No.: 201334458
Issue No.: 1082; 3000; 5000
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 7, 2013. After due notice, a telephone hearing was held on April 10, 2013, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant and [REDACTED], Claimant's friend. Participants on behalf of the Department included [REDACTED], Family Independence Specialist.

ISSUE

Whether the Department properly determined that Claimant has exceeded the 60-month federal lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception.

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 February 10, 2012, the Department notified Claimant that her FIP case would close effective March 1, 2013, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
3. On March 7, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action concerning her FIP case, as well as a State Emergency Relief (SER) application. Claimant's hearing request also referenced her Food Assistance Program (FAP) case.

CONCLUSIONS OF LAW

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).

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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Mich Admin Code, R 400.7001 through R 400.7049.

SER and FAP Issues

At the hearing, Claimant testified that her SER application had been processed and resolved to her satisfaction, and she did not have any issue concerning the Department's actions concerning her SER application. She also testified that she had no concerns regarding her FAP case. Thus, to the extent Claimant's hearing request concerned SER and FAP issues, the request for hearing with respect to those issues are dismissed. The hearing proceeded with respect to Claimant's concerns regarding her FIP case closure.

Closure of FIP Case

The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013), p 1. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits, unless the individual was approved for FIP benefits as of January 9, 2013 **and** was exempt from participation in the Partnership.Accountability.Training.Hope (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. 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. The federal limit count begins October 1996. BEM 234, p 1.

In this case, the Department presented documentation showing that, as of June 2011, Claimant had received 108 months of federally funded FIP benefits. Claimant did not dispute that she had received FIP during the months indicated. However, she

contended that she had an ongoing disability. The Department credibly testified that, although Claimant had been deferred from the work participation program in the past because of a disability, her disability code ended as of February 29, 2012, and between March 1, 2012 until her case closed on March 1, 2013, Claimant had been designated a mandatory work participation program participant. Claimant admitted that she participated in the work participation program between October 2012 and December 2012. Although Claimant testified that she had mental incapacities that prevented her employment, her testimony failed to establish that she had reported any disability to the Department by January 9, 2013. Therefore, she was not eligible for a deferral from the work participation program on the basis that she was establishing incapacity or incapacitated for more than 90 days. In the absence of any deferral granted by the Department to Claimant from her participation in the work participation program as of January 9, 2013, Claimant did not fall within the exception to the 60-month federal time limit. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case effective March 1, 2013.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case improperly closed Claimant's FIP case

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.

Claimant's hearing request concerning her SER and FAP cases are DISMISSED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/19/2013

Date Mailed: 4/1/92013

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

ACE/hw

cc:

