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

IN THE MATTER OF:

Reg. No.:   201339935
Issue No.:   1021;1080
Case No.:   ▮▮▮▮▮▮
Hearing Date: May 6, 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). After due notice, a telephone hearing was held on May 6, 2013, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant. Participants on behalf of the Department included ▮▮▮▮▮aylor, Family Independence Specialist.

ISSUE

Whether the Department properly closed Claimant's Family Independence Program (FIP) case effective February 1, 2013.

Whether the Department properly denied Claimant's March 28, 2013, FIP application on the basis that she exceeded the 60-month federal lifetime limit on 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 had been receiving FIP benefits until her case closed effective February 1, 2013.

2.   On March 28, 2013, Claimant reapplied for FIP benefits.

3.   On March 28, 2013, the Department denied Claimant's FIP application because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011.

4.   On April 8, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action on the basis that she had not received FIP in excess of 60 months.

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).

Claimant requested a hearing to address her FIP case. At the hearing, the Department addressed only the denial of Claimant's March 28, 2013 FIP application on the basis that Claimant had exceeded the federal lifetime limit on the receipt of FIP benefits. However, the evidence produced at the hearing, including the work participation program notes showing that a triage was held in November 2012, and the eligibility summary under case no. 11617763, established that Claimant had been receiving FIP benefits as of November 1, 2012, and her case had closed effective February 1, 2013. No Notice of Case Action showing the date Claimant was notified of the case closure or the reason was provided. In fact, the Department presented no evidence to support the closure of Claimant's FIP case on February 1, 2013. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case on February 1, 2013.

Furthermore, the Department did not present sufficient evidence to support its decision to deny Claimant's March 28, 2013 FIP application for exceeding the federal time limit. The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013), p 1. Under the federal FIP time limit, an individual is not eligible for continued FIP benefits once she receives a cumulative total of 60 months of FIP benefits, unless she 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.

At the hearing, the Department testified that Claimant had applied for FIP benefits on March 28, 2013, and her application was denied because she had exceeded the federal lifetime limit on the receipt of FIP benefits, having received 85 months of FIP benefits as of September 1, 2011. Although the Department had testified that Claimant did not

receive FIP benefits as of January 2013, the eligibility summary the Department presented showed that Claimant had received FIP benefits in January 2013. Because the Department did not present any evidence concerning Claimant's deferral status in January 2013, the Department was unable to establish that Claimant was ineligible for the exception to the federal time limit.

Furthermore, the Department did not provide a month-by-month breakdown establishing that Claimant had received federally-funded FIP benefits for more than 60 months. Claimant acknowledged at the hearing that she had received FIP benefits over a prolonged period of time, but testified that she did not receive benefits consistently and that she had not received FIP benefits during periods when she worked. She could not confirm having received federally-funded FIP benefits in excess of 60-months.

Under these facts, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in denying Claimant's March 28, 2013 FIP application on the basis that Claimant was not eligible for FIP benefits under the 60-month federal time limit.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy in closing Claimant's FIP case effective February 1, 2013, and denying her March 28, 2013 FIP application.

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

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

1. Reinstate Claimant's FIP case as of February 1, 2013;
2. Remove any noncompliance entered on, or about February 1, 2013, from Claimant's record; and
3. Begin issuing supplements to Claimant for FIP benefits she was eligible to receive but did not from February 1, 2013, ongoing.

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

Date Signed: 5/14/2013

Date Mailed: 5/14/2013

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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: