

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

IN THE MATTER OF:



Reg. No.: 2013-43087
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Wayne (82-49)

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 June 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department included [REDACTED]

ISSUE

Whether the Department properly denied Claimant's March 2013 FIP application on the basis that she exceeded the lifetime time limit on receipt of FIP benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On or about March 15, 2013, Claimant applied for FIP benefits.
2. On April 12, 2013, the Department sent Claimant a Notice of Case Action denying her application because she had exceeded the 60-month limit for receipt of FIP benefits.
3. On April 17, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's conclusion that she had received 60 months of FIP assistance.

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 applied for FIP benefits on or about March 15, 2013. The Department sent her an April 12, 2013, Notice of Case Action denying her application on the basis that she “received 60 months or more of benefits, which is the time allowed for eligibility.” 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. However, the Notice sent to Claimant states that Claimant had received **56** months of assistance as of November 1, 2012. Based on the Notice itself, Claimant did not reach the 60-month federal time limit for the receipt of benefits. Thus, the Department did not act in accordance with Department policy to the extent it denied Claimant’s application on the basis that she had exceeded the federal time limit for receipt of FIP benefits.

At the hearing, however, the Department contended that Claimant had exceeded the *State* FIP time limit of 48 months. Under the State FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 48 months of FIP benefits. BEM 234, p. 1. The state limit count begins October 2007. BEM 234, p. 1. The State count excludes months the individual is deferred from PATH for domestic violence, age 65 and over, verified disability or long-term incapacity lasting longer than 90 days, or caring for a spouse or child with verified disabilities living in the home. BEM 234, pp. 2-3. However, the State count includes each month an individual serves a sanction for employment and training noncompliance. BEM 234, p. 4.

In support of its case, the Department presented a Michigan FIP Time Limit chart showing each of the months Claimant received FIP benefits, her work participation status during each month, her exemption reason during months her work participation status was deferred, and disqualification reasons. At issue in this case was the designation of Claimant’s status for December 2012, January 2013 and February 2013. The evidence established that Claimant received FIP benefits through November 30, 2012. The Department contended, and the chart indicated, that Claimant was sanctioned for noncooperation with employment beginning December 1, 2012, and her case remained closed for a three-month penalty. Claimant disputed the Department’s

conclusion, arguing that her case had closed because of noncompliance with child support reporting obligations. Claimant established that the Department sent her a September 21, 2012, Notice of Case Action notifying her that her FIP case would close effective October 31, 2012, because of child support noncooperation. The Department presented evidence that the FIP case was erroneously closed based on the child support noncooperation and that her case was reinstated and she received FIP benefits for the month of November 2012. However, the Department failed to present any evidence showing that Claimant was subject to an employment sanction for December 2012 through February 2013. The fact that the chart indicates that Claimant was disqualified for noncooperation with employment and training from November 2011 through November 2012 but had an "eligible adult" participation during those months that could not be explained further weakened the Department's argument that Claimant was subject to an employment noncooperation sanction between December 2012 and February 2013. Because the Department failed to establish that Claimant was subject to an employment sanction between December 2012 and February 2013, those months cannot be counted towards Claimant's State time limit count. When those months are removed from Claimant's countable months, Claimant's State time limit count is less than 48 months. Thus, the Department did not act in accordance with Department policy when it denied Claimant's FIP application on the basis that Claimant had reached the State FIP time limit.

DECISION AND ORDER

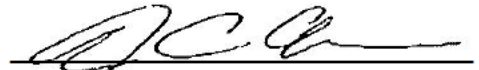
The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, decides that the Department did not act in accordance with Department policy in denying Claimant's March 15, 2013, FIP application.

Accordingly, the Department's FIP decision is REVERSED.

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

1. Reregister Claimant's March 2013 FIP application;
2. Begin reprocessing Claimant's FIP application, consistent with this Hearing Decision, to exclude December 2012, January 2013 and February 2013 from Claimant's State FIP time limit count; and
3. Begin issuing supplements to Claimant for FIP benefits she was eligible to receive but did not from the date of the March 2013 application, ongoing;
4. Notify Claimant in writing of its decision; and

5. Take each of the preceding steps in accordance with Department policy.



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

Date Signed: June 12, 2013

Date Mailed: June 13, 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,
 - 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/pf

cc:

