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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013-48962
Issue No.: 1080
Case No.: [redacted]
Hearing Date: June 20, 2013
County: Wayne (82-57)

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 May 17, 2013. After due notice, a telephone hearing was held on June 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department included [redacted].

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 May 10, 2013, the Department notified Claimant that her FIP case would close effective June 1, 2013, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 2011.

3. On May 17, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action.

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).

In this case, the Department did not provide a Notice of Case Action with the hearing packet but testified that a Notice was sent to Claimant on May 10, 2013, notifying her that her FIP case would close effective June 1, 2013, because she had exceeded the federal time limit for the receipt of FIP benefits.

The FIP benefit program is not an entitlement. BEM 234 (June 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, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, pp. 1-2; MCL 400.57a(4). The federal limit count begins October 1996. BEM 234, p. 1.

At the hearing, the Department presented evidence that Claimant had received FIP benefits in excess of 60 months, and Claimant acknowledged receiving benefits in excess of 60 months. However, the Department further testified that Claimant was active for FIP benefits as of January 2013, that she had alleged a disability and submitted medical documentation to the Department concerning her disability on December 14, 2012, that this documentation was forwarded to the Medical Review Team (MRT) on May 5, 2013, and that MRT's disability determination for purposes of determining Claimant's eligibility for a PATH deferral remained pending as of hearing date. Claimant denied receiving any response from MRT regarding her PATH deferral. Because the Department established that Claimant alleged a disability and had submitted her medical packet to the Department in December 2012 and there was no evidence that MRT had made a disability determination with respect to Claimant's PATH deferral, Claimant was deferred from the PATH program while "establishing incapacity" in January 2013. Thus, she remained eligible for the federal exception from the federal time limit on the basis of "establishing incapacity" at the time the May 10, 2013, Notice of Case Action closing her FIP case was sent to her. Furthermore, at the hearing, Claimant also alleged that she cared for a child with disabilities. If Claimant's exception for establishing disability ends, the Department must also consider whether Claimant met one of the other employment deferral reasons, which include caring for a disabled child, before finding her ineligible based on time limits. BEM 234, p. 2. Under

the facts in this case, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for exceeding the federal time limit.

DECISION AND ORDER

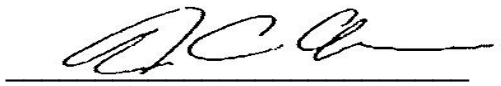
The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP case for reaching the 60-month federal time limit.

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. Reinstate Claimant's FIP case as of June 1, 2013; and

2. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from June 1, 2013, ongoing.



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

Date Signed: June 24, 2013

Date Mailed: June 25, 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

ACE/pf

cc: [redacted]