

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-47361
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: Pathways to Potential

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 7, 2013. After due notice, a telephone hearing was held on July 24, 2013, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant and [REDACTED]. 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 March 11, 2013, the Department notified Claimant that her FIP case would close effective April 1, 2013, because her husband had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
3. On April 3, 2013, Claimant reapplied for FIP benefits.

4. On April 16, 2013, the Department denied the application on the basis that Claimant's husband had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
5. On May 7, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action, contending that her husband was disabled.

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).

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 eligible for a federal exception to the federal time limit. 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 did not provide any of the relevant Notices of Case Action but testified that Claimant's FIP case was closed effective April 1, 2013, and her April 3, 2013, FIP application was denied because her husband, who lived in the same household as Claimant, had received 97 countable months of FIP assistance. In two-parent households, the parent with the highest FIP count is applied to the FIP group's time limit, and once the parent with the highest count reaches the maximum time limit, the FIP case closes. BEM 234, p. 4. Although Claimant questioned the Department's testimony that her husband had accumulated 97 months of FIP benefits, she did not present any specific evidence countering three years of FIP benefits over the federal 60-month limit. Thus, the Department established that Claimant's husband exceeded the 60-month federal time limit for receipt of FIP benefits.

A client is eligible for an exception to the FIP time limit if the client was approved or active 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. BPB 2013-006, p. 1.

The evidence at the hearing established that Claimant received FIP benefits in January 2013. However, the Department did not present any documentation identifying Claimant's husband's PATH participation status as of January 9, 2013, and Claimant

alleged that her husband was disabled. The Department acknowledged that Claimant's husband had alleged a disability twice in 2012, the last time in November 2012, but contended that he had failed to provide the completed medical documents requested to establish a deferral based on a disability in either instance. See BEM 230A (November 2012 and January 2013), pp. 9-11. A client who claims a disability is deferred from PATH participation, but if the client fails to return a verification of disability when requested, the client will be required to fully participate in PATH as a mandatory participant. BEM 230A, pp. 9-10. While the Department's testimony shows that Claimant's husband may no longer have been eligible for a PATH deferral, it was not sufficient to establish that Claimant's husband's had lost his "establishing incapacity" status as of January 9, 2013, and was a mandatory PATH participant as of that date. Department policy requires that the Department consider a client's PATH status specifically as of January 9, 2013, to determine whether the client is eligible for an exception to the federal time limit. Furthermore, the fact that the Department sent Claimant's husband an appointment notice referring him to the PATH program in October 2012 does not address his PATH status as of January 2013, particularly in light of the fact that he alleged a disability in November 2012, after he was sent the October 2012 appointment notice.

In the absence of any evidence concerning Claimant's husband's PATH participation status in January 2013 and his ongoing status as of March 11, 2013, when the Notice of Case Action was sent, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in concluding that Claimant's husband was not eligible for an exception to the federal time limit or had become ineligible for the exception. Further, if a client is eligible for the federal exception to the federal time limit based on the client's PATH deferral as of January 9, 2013, this exception continues to be available to the client when the client reapplies for FIP and the application is approved under certain employment deferral reasons, which include incapacitated more than 90 days. See BPB 2013-006, p. 1. In the absence of any evidence concerning Claimant's husband's FIP status as of January 9, 2013, and whether he alleged a disability in the April 1, 2013, FIP application, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the application. 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 and denied her FIP application.

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, concludes that the Department did not act in accordance with Department policy when it closed Claimant's FIP case and denied her 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 April 1, 2013;
2. Reregister Claimant's April 1, 2013, FIP application;
3. Begin processing Claimant's FIP eligibility for April 1, 2013, ongoing in accordance with Department policy and consistent with this Hearing Decision;
4. Begin issuing supplements to Claimant for FIP benefits she was eligible to receive but did not from April 1, 2013, ongoing; and
5. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: August 13, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

2013-47361/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

