

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-47362
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: July 25, 2013
County: Wayne (82-19)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included

[REDACTED]

ISSUE

Whether the Department properly denied Claimant's Family Independence Program (FIP) application because she exceeded the 60-month federal lifetime limit on receipt of 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. Between February 1, 2013, and April 30, 2013, Claimant was penalized with closure of her FIP case for a first occurrence of noncompliance with employment activity without good cause.
3. On or before April 12, 2013, Claimant reapplied for FIP benefits.

4. On April 12, 2013, the Department denied the application on the basis that Claimant had exceeded the 60-month federal time limit for receipt of FIP benefits as of September 1, 2011.
5. On April 30, 2013, Claimant filed a request for hearing disputing the Department's actions, citing her "medical condition and medical issues."

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (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 (formerly known as the Family Independence Agency) 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.

On April 30, 2013, Claimant filed a request for hearing, referencing "PATH" in her hearing request. The Department prepared a hearing summary to address its April 12, 2013, Notice of Case Action denying Claimant's FIP application on the basis that Claimant had exceeded her 60-month federal time limit for receipt of FIP benefits. The Notice indicated that Claimant had received 94 countable months of assistance as of September 1, 2011.

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 as of January 9, 2013, the individual was (1) approved or active for FIP benefits **and** (2) 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, Claimant did not dispute having received more than 60 months of FIP benefits. Thus, the issue presented was whether Claimant was eligible for a federal exception to the federal FIP time limit. Claimant was an active FIP recipient in January 2013. The Department was uncertain whether Claimant was deferred from participation in PATH in January 2013, but because Claimant was subject to a FIP sanction for noncompliance with her employment-related PATH obligations between February 1, 2013, and April 30, 2013, it follows that Claimant was not deferred from PATH

participation in January 2013 and would not be eligible for an exception to the FIP federal time limit.

However, at the hearing, Claimant argued that she had alleged a disability at the time she was referred to the work participation program in December 2012. Claimant's allegation, if established, would make Claimant eligible for a PATH deferral on the basis of establishing incapacity and, consequently, provide her with an exception to the 60-month federal time limit.

Claimant testified at the hearing that she attended a work participation program appointment on December 17, 2012, informed the front desk worker that she was scheduled to have surgery, and the worker advised her to tell her Department worker and have the appointment rescheduled. Claimant alleged she attempted to contact the Department but no one responded to her calls. Instead, the Department sent Claimant a Notice of Noncompliance on December 28, 2012, notifying her of the noncompliance and scheduling a January 4, 2013, triage. Claimant did not attend the triage.

At the triage, the Department must consider whether the client had good cause for the noncompliance even if the client does not attend the triage. BEM 233A, p. 8. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person and includes a debilitating illness or injury. BEM 233A, pp. 3, 5. Good cause must be based on the best information available during the triage and prior to the negative action date and may be verified by information already on file with the Department or the work participation program. BEM 233A, p. 8.

In this case, the Department testified that it held the triage but found no good cause for Claimant's noncompliance. However, the Department submitted the Work Participation Program Appointment Notice at issue into evidence at the hearing, and the Notice had a handwritten notation at the bottom of the page that stated "went to hospitol [sic] waiting for SSI." According to Claimant, the notation was placed there by the work participation program front desk worker after she explained her circumstances. Because the Department had the Appointment Notice with the handwritten notation in its file, the Department was aware, or should have been aware, that Claimant was alleging a disability. If a client alleges an inability to participate in the work participation program for more than 90 days because of a mental or physical condition at any time during an ongoing benefit period, the Department must defer the client from participation in the work participation program while a determination of the client's long-term disability is made. BEM 230A (November 2012), p. 10. Thus, as of the January 4, 2013, triage date, Claimant would be deferred from the PATH program and her PATH participation status would be "establishing incapacity." Because as of January 9, 2013, Claimant was an active FIP recipient and should have been deferred from PATH for "establishing incapacity," she was eligible for an exception to the federal FIP time limit. Thus, the Department did not act in accordance with Department policy when it denied Claimant's April 12, 2013, FIP application.

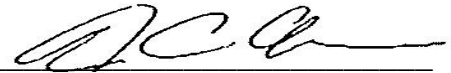
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Claimant's 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 the April 12, 2013, FIP application;
2. Identify Claimant's PATH participation status as "establishing incapacity" as of January 9, 2013, in the Department's system;
3. Begin determining whether Claimant meets the criteria for a PATH deferral based on the alleged disability in accordance with Department policy;
4. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
5. Issue supplements to Claimant for FIP benefits she was eligible to receive based on the April 12, 2013, application date, ongoing; and
6. 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 5, 2013

Date Mailed: August 6, 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:

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

ACE/pf

cc:

