

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

IN THE MATTER OF:



Reg. No.: 2013-59366
Issue Nos.: 1080, 3002
Case No.: [REDACTED]
Hearing Date: August 19, 2013
County: Wayne (82-31)

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 Claimant's request for a hearing received by the Department of Human Services (Department) on July 19, 2013. After due notice, a telephone hearing was held on August 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department included [REDACTED]

ISSUES

1. Did the Department properly calculate Claimant's monthly Food Assistance Program (FAP) benefits?
2. Did the Department properly deny Claimant's Family Independence Program (FIP) case because Claimant exceeded the 60-month federal lifetime limit on receipt of FIP benefits and is 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. In late June 2013 or early July 2013, Claimant applied for FIP and FAP benefits.
2. On June 14, 2013, the Department sent Claimant a Notice of Case Action denying her FIP application on the basis that, as of September 1, 2011, she had received 97 countable months of FIP assistance, in excess of the 60-month federal lifetime limit on receipt of FIP assistance.

3. On July 12, 2013, the Department sent Claimant a Notice of Case Action approving her FAP application for \$367 in monthly FAP benefits effective July 1, 2013, for a household size of two.
4. On July 19, 2013, Claimant filed a request for hearing concerning her FIP and FAP cases.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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).

FAP Benefits

The Department established that Claimant was approved effective July 1, 2013, for monthly FAP benefits of \$367 for a household size of two. At the hearing, Claimant confirmed that her FAP group consisted of two individuals, herself and her child, and that she had no income. The maximum FAP issuance for a group size of two with no income is \$367. RFT 260 (December 2012), p. 1. Because Claimant received the maximum FAP issuance available to her, the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits.

Denial of FIP Application

Claimant testified that she had last received FIP benefits in September 2011, and she reapplied for FIP benefits in late June 2013 or early July 2013. In a June 14, 2013, Notice of Case Action, the Department denied Claimant's application because she had exceeded the 60-month federal time limit for lifetime receipt of FIP benefits as of September 2011.

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 is

eligible for an exception to the federal time limit. An exception is available to individuals who were approved for FIP benefits as of January 9, 2013, **and** were 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.

In establishing its case, the Department provided a Federal TANF Time Limit showing each of the countable months Claimant received FIP benefits. The list showed 97 countable months of FIP benefits issued to Claimant between December 1998 and September 2011. Although Claimant testified that she did not believe that she was issued benefits in 2010 because she was receiving unemployment benefits that year, she did not present any documentary evidence to dispute the Department's evidence. Furthermore, even if each of the 12 months in 2010 were excluded from Claimant's federal countable months, she nonetheless received 85 months of countable federal months, well in excess of the 60-month limit. Because Claimant was not an active FIP benefit recipient as of January 9, 2013, she was not eligible for an exception to the federal time limit. Thus, the Department acted in accordance with Department policy when it denied Claimant's FIP application on the basis that Claimant had exceeded the federal time limit for receipt of such benefits.

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 acted in accordance with Department policy when it calculated Claimant's FAP benefits and denied Claimant's FIP application for exceeding the federal time limit on receipt of such benefits.

Accordingly, the Department's FAP and FIP decisions are AFFIRMED.



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

Date Signed: August 22, 2013

Date Mailed: August 22, 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:

