

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

**IN THE MATTER OF:**

██████████  
██████████████████  
██████████████████████████████

Reg. No.: 2013-57711  
Issue No(s): 1021; 2018; 3000  
Case No.: ██████████  
Hearing Date: November 7, 2013  
County: Wayne (43)

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**HEARING DECISION**

Upon Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37, and Title 45 of the Code of Federal Regulations (CFR), particularly 45 CFR 205.10. After due notice, a hearing was held on November 7, 2013, in Highland Park, Michigan. Participants on behalf of Claimant included Claimant and Claimant's Authorized Hearing Representative, ██████████ ██████████ ██████████. Participants on behalf of the Department included ██████████ PATH Worker.

**ISSUE**

Did the Department properly determine that Claimant exceeded the 60-month federal lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception?

Did the Department properly change Claimant's Medical Assistance (MA) - Low Income Family (LIF) case to MA-Adult Medical Program (AMP)?

Did the Department properly close Claimant's MA case?

**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 received FIP benefits through November 30, 2012. (Exhibit 6)
2. Claimant received MA-LIF through March 31, 2013. (Exhibit 2, p. 2)

3. Claimant received MA-AMP from April 1, 2013 through June 30, 2013. (Exhibit 2, pp. 1,2)
4. The Department did not present for examination a written notice showing why Claimant's MA case switched from MA-LIF to MA-AMP on April 1, 2013.
5. On June 28, 2013, the Department notified Claimant that her MA case would close, effective August 1, 2013 due to, *inter alia*, Claimant not being a caretaker of a minor child. (Exhibit 1, p.3)
6. Claimant is currently a caretaker of a minor child, and was a caretaker of a minor child on April 1, 2013 and June 28, 2013.
7. Claimant was deferred from participation in work opportunities through December 31, 2012 due to disability lasting longer than 90 days. (Exhibit 5)
8. On May 30, 2013, the Department agreed to place Claimant in cooperation with respect to child support in all matters, effective November 12, 2012, and to reinstate Claimant's FIP and MA benefits, effective December 1, 2012. (Hearing Settlement Order of June 5, 2013)
9. On June 28, 2013 the Department attempted to register Claimant for FIP, effective December 1, 2012, but was prevented from doing so due to Claimant reaching the federal 60 month limit of receiving benefits.
10. On June 28, 2013, the Department notified Claimant that FIP was denied due to Claimant exceeding the federal time limit. (Exhibit 1, pp. 9, 10)
11. On July 9, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a request for hearing, disputing the Department's action with regard to MA, FIP and the Food Assistance Program (FAP).
12. At the hearing, Claimant's AHR stated that the FAP issue was resolved and Claimant no longer requested a hearing regarding FAP.

### **CONCLUSIONS OF LAW**

#### **FIP**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. 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, 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 they are eligible for an exception to the federal time limit. An exception exists for individuals who were, as of January 9, 2013, (1) approved/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, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2; MCL 400.57a(4). The exception continues as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p. 1.

BAM 815, pp.1- 8 instructs that for a FIP deferral, medical evidence provided by the client will be reviewed by the Medical Review Team (MRT) and a physician. The MRT reviews medical evidence for disability or blindness, and certifies the client's medical eligibility for assistance. The specialist is to enter the disability review date in Bridges on the Disability Determination - MRT screen.

In the present case, Claimant received FIP benefits through November 30, 2012. (Exhibit 6) Claimant was deferred from participation in work opportunities through December 31, 2012 due to disability lasting longer than 90 days. (Exhibit 5) On May 30, 2013, the Department agreed to place Claimant in cooperation with respect to child support in all matters, effective November 12, 2012, and to reinstate Claimant's FIP benefits, effective December 1, 2012. (Hearing Settlement Order of June 5, 2013) On June 28, 2013 the Department attempted to register Claimant for FIP, effective December 1, 2012, but was prevented from doing so due to reaching the federal 60 month limit of receiving benefits.

In this case, since Claimant was not receiving FIP benefits due to what was later determined to be an incorrect child support sanction on her case, the Department did not follow Department procedures of disability review for January of 2013.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not review Claimant's claim for disability for January of 2013, and therefore did not follow Department procedure when it denied Claimant's FIP eligibility for exceeding the federal time limit.

### **MA**

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family

Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

On May 30, 2013, the Department agreed to place Claimant in cooperation with respect to child support in all matters, effective November 12, 2012, and to reinstate Claimant's FIP and MA benefits, effective December 1, 2012. (Hearing Settlement Order of June 5, 2013) Claimant received MA-LIF through March 31, 2013. (Exhibit 2, p.2) Claimant received MA-AMP from April 1, 2013 through June 30, 2013. (Exhibit 2, pp. 1,2) The Department did not present for examination a written notice showing why Claimant's MA case switched from MA-LIF to MA-AMP on April 1, 2013.

On June 28, 2013, the Department notified Claimant that her MA case would close, effective August 1, 2013 due to, *inter alia*, Claimant not being a caretaker of a minor child. Claimant is currently a caretaker of a minor child, and was a caretaker of a minor child on April 1, 2013 and on June 28, 2013.

BEM 105, p. 2 instructs that persons may qualify under more than one MA category and they have the right to the most beneficial category.

Based on the above discussion, the Administrative Law Judge finds that the Department did not follow policy when it changed Claimant's MA-LIF to MA-AMP, as MA-LIF is the more beneficial category for Claimant. In addition, the Department did not properly close Claimant's MA case, effective August 1, 2013 due to Claimant not being a caretaker of a minor child, as Claimant was a caretaker of a minor child.

### **FAP**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Shortly after commencement of the hearing, Claimant's Authorized Hearing Representative (AHR) indicated that the FAP issue was resolved and Claimant did not wish to proceed with the hearing regarding FAP.

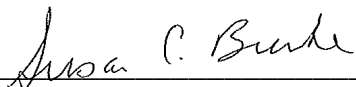
### **DECISION AND ORDER**

Accordingly, the Department's FIP and MA decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Review Claimant's FIP case to determine if Claimant would be 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, as of January 9, 2013.
2. If Claimant is determined to have been exempt from participation in PATH as of January 9, 2013, reinstate Claimant's FIP case, effective January 1, 2013, retroactive to December 1, 2012.
3. Issue FIP supplements, in accordance with Department policy.
4. Reinstate Claimant's MA-LIF case, effective April 1, 2013 and ongoing, if Claimant is found to be otherwise eligible for MA-LIF.

IT IS FURTHER ORDERED that Claimant's request for hearing regarding FAP is DISMISSED due to Claimant's request for withdrawal of the FAP issue at the hearing.



**Susan C. Burke**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 13, 2013

Date Mailed: November 13, 2013

**NOTICE OF APPEAL:** 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.

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).

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.

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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

SCB/tm

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]