

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2013-68273
Issue No.: 1021
Case No.: ██████████
Hearing Date: October 28, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 telephone hearing was held on October 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's interpreter, ██████████. Participants on behalf of the Department or DHS included ██████████, Assistant Payment 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?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 14, 2013, Claimant applied FIP benefits.
2. On August 20, 2013, the Department notified Claimant that
 - the FIP case would close
 - the FIP application was deniedbecause Claimant had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.

3. On August 23, 2013, Claimant filed a request for hearing, disputing the Department's action.

CONCLUSIONS OF LAW

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 (July 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 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.

Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets any exemption criteria. BEM 234, p. 7.

In this case, on August 14, 2013, Claimant applied for FIP benefits. On August 20, 2013, the Department notified Claimant that her FIP application was denied effective September 1, 2013, ongoing because she exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. See Exhibit 1.

At the hearing, the Department presented as evidence Claimant's Federal TANF Time Limit. Exhibit 1. This document showed that Claimant had received a cumulative total of 60 months or more of FIP benefits as of September 2011. Exhibit 1. Thus, at the time of her application, Claimant exceeded the 60-month federal lifetime limit and was not eligible for FIP benefits.

Claimant testified, though, that she is in need of the cash assistance due to financial reasons. See Hearing Summary, Exhibit 1. Moreover, Claimant identified her medical conditions during the hearing. It should be noted that a review of Claimant's Michigan FIP Time Limit document showed that she last received FIP benefits for March 2013. See Exhibit 1. Claimant agreed that she last received FIP benefits in March 2013. The

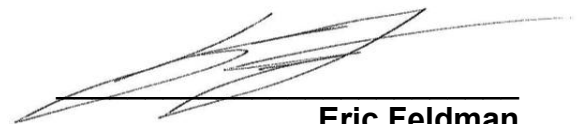
Department testified that on or around March 11, 2013, a notice was sent to Claimant notifying her that her FIP benefits were closed due to her FIP benefits exceeding the time limits. Claimant agreed that she received this notice in March 2013. It appeared that Claimant did not file a hearing request to dispute the prior FIP closure in March 2013.

Nevertheless, based on the foregoing evidence and testimony, the Department properly denied Claimant's FIP application effective September 1, 2013, ongoing, in accordance with Department policy. The Department presented evidence that Claimant is not eligible for FIP benefits because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 2011. See Exhibit 1. Moreover, Claimant was an ongoing recipient of FIP benefits and she last received benefits in March 2013, until the FIP benefits were closed. However, BEM 214 states once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets any exemption criteria. BEM 234, p. 7. This situation is present in this case. Thus, the Department acted in accordance with Department policy when it denied Claimant's FIP application effective September 1, 2013, ongoing.

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, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's FIP eligibility for exceeding the federal time limit on receipt of FIP benefits.

Accordingly, the Department's FIP eligibility decision is AFFIRMED REVERSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 12, 2013

Date Mailed: November 12, 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.

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]