

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201331176
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: April 4, 2013
County: Wayne County (#57)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Thursday April 4, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly determined that the Claimant exceeded the Federal 60 month lifetime limit on Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FIP recipient.
2. The Department determined that the Claimant accumulated 114 months toward the lifetime maximum limit on the receipt of federally-funded FIP assistance as of February 1, 2011.
3. On February 10, 2013, the Department sent the Claimant Notice of Case Action notifying her that her FIP benefits would close effective March 1, 2013 due to receiving 60 months or more of federally -funded FIP assistance. (Exhibit 2)

4. On February 14, 2013, the Department received the Claimant's written hearing request disputing the Department's action.

CONCLUSIONS OF LAW

The Department of Human (DHS) policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). Clients have the right to contest a Department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. The Department Bridges Administrative Manual (BAM) 600 (February 1, 2013). The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code (Mich Admin Code), R 400.901-400.951.

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.

The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self sufficiency. It 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.

The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013). Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. BEM 234. Michigan operates the FIP Program by using both federal and state funds. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established a five-year (60-month) lifetime limit on assistance for adult-headed families. The begin date for the federal time limit counter is October 1, 1996. Each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month. A family is no longer eligible for FIP when a mandatory group member in the program group received 60 months or more of federally funded FIP assistance. Notwithstanding, the FIP time-limit is 48 months for the receipt of state funded benefits. Once an individual reaches a FIP time-limit whether state or federal the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets an exemption criteria based on the funding source. BEM 234.

Effective January 9, 2013, the federal 60 month time-limit policy does not apply to individuals who were deferred from the work participation program for either of the following: (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability of long-term incapacity lasting longer than 90 days; or (iv) provides care for a spouse or child with verified disabilities living in the home. BEM 234. The benefits received will be state funded until the 48 month state time-limit maximum is reached. BEM 234.

In this case, the Department performed a mass update in February 2013 as the result of the outcome of a lawsuit involving the federal and state time-limit laws for FIP assistance cases. The courts held the FIP assistance time-limit laws were not unconstitutional. Therefore, the Department enacted the policy by pending the Claimant's and other clients FIP cases for closure effective March 1, 2013 due to allegedly exceeding the 60 month time limit for federally funded FIP benefits. Claimant testified that she disagrees with the Department's action because she believes she is still eligible for state funded FIP assistance. The Department did not present any documentation showing Claimant's countable months for either federal or state funded benefits.

The Department was instructed to fax to the Hearing Office the federal time-limit summary for the Claimant. As of the date of this decision, the Department has yet to submit the requested documentation. The Department has the burden of proof; and in light of the foregoing, the Department has not established by a preponderance of the evidence that the Claimant received 60 months or more of federally funded FIP assistance and was not eligible to continue receiving state funded FIP assistance.

Accordingly, the Department's action is not upheld.

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 establish that it acted in accordance with policy when it terminated the Claimant's FIP benefits effective March 1, 2013 for exceeding the 60 month lifetime limit for federal funded FIP assistance.

Accordingly, the Department's FIP determination is hereby, **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Claimant's FIP benefits from the proposed date of closure March 1, 2013, and supplement for lost FIP benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.

2. The Department shall review the Claimant's case to determine whether the Claimant met the exception to the federal time limits as of January 9, 2013 in accordance with policy.
3. The Department shall notify the Claimant of the FIP time-limit determination after the case review in accordance with Department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/12/2013

Date Mailed: 4/12/2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

