

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201341382
Issue No.: 1080
Case No.: [REDACTED]
Hearing Date: May 13, 2013
County: Wayne (15)

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 May 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist and translator.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application on the basis that she had exceeded the state time limit for receipt of such 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. Claimant was an ongoing recipient of FIP benefits.
2. On March 30, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective May 1, 2013, because she had received FIP benefits in excess of the state time limit allowed for eligibility.
3. On April 11, 2013, Claimant filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

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

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.

Under the state FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 48 months of FIP benefits. BEM 234 (January 2013), p 1. The state limit count begins October 2007. BEM 234, p 1. The state time limit allows exemption months in which a client does not receive a count towards the state time limit. BEM 234, p 2. Exemption months are months the individual is deferred from PATH for (i) domestic violence, (ii) age 65 and older, (iii) a verified disability or long-term incapacity lasting longer than 90 days, or (iv) providing care for a spouse or child with verified disabilities living in the home. BEM 234, pp 2-5.

In this case, the Department presented a Michigan FIP time limit summary showing that Claimant had received FIP benefits for 48 months between January 2008 and April 2013. However, the chart showed two months, October 2011 and July 2011, where Claimant was listed as a mandatory work participant but had an exemption for "incapacitated to work." The Department was unable to provide any details concerning the exemption applied during those months. Claimant also had a work participant status of "deferred" between March 2012 and April 2013 and each of those months was counted towards Claimant's state limit in the chart. However, no exemption reason was listed. Claimant testified that she was deferred because of her medical condition. The Department could not provide any explanation concerning the reason the deferral was granted. The exclusion of the foregoing months would place Claimant's state time limit count at 32 months. Because the Department could not establish that July 2011, August 2011, and the months between March 2012 and April 2013, were not exempt months under BEM 234, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case because Claimant had exceeded the state time limit for receipt of FIP 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, finds that the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case for exceeding the FIP state time limit.

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. Reinstate Claimant's FIP case as of May 1, 2013; and
2. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from May 1, 2013, ongoing.


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

Date Signed: 5/22/2013

Date Mailed: 5/22/2013

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

ACE/hw

