

**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.: 2013-47376
Issue No.: 1021
Case No.: ██████████
Hearing Date: July 25, 2013
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 or DHS) on May 14, 2013. After due notice, a telephone hearing was held on July 25, 2013, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant; Claimant's ██████████; and Claimant's ██████████. Participants on behalf of the Department included ██████████ Family Independence Specialist.

ISSUE

Whether the Department properly determined that Claimant has exceeded the lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception to the time limit?

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 April 23, 2013, the Department notified Claimant that her FIP case would close effective June 1, 2013, ongoing, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of April 1, 2011. Exhibit 1.
3. On May 14, 2013, the Department received the Claimant's Request for Hearing, disputing the closure of her FIP benefits. Exhibit 1.

CONCLUSIONS OF LAW

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).

The FIP benefit program is not an entitlement. BEM 234 (January 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 was approved for FIP benefits as of January 9, 2013 **and** was exempt from participation in the Partnership.Accountability.Training.Hope (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, caring for a spouse or child with disabilities. BEM 234, p. 1; MCL 400.57a (4); Bridges Federal Time Limit Interim Bulletin (BPB) 2013-006 (March 1, 2013), p 1. The federal limit count begins October 1996. BEM 234, p. 1.

In this case, Claimant was an ongoing recipient of FIP benefits. In September 2012, the Department testified that Claimant was deferred from the work participation program due to Claimant being incapacitated. Also, in September 2012, the Department testified that it submitted a completed medical packet to the Medical Review Team (MRT) to obtain a decision of the deferral request. In January 2013, the Department testified that the MRT denied Claimant's deferral request and her deferral ended at that time. See Employment Services – Details, Exhibit 1. Then, on April 23, 2013, the Department notified Claimant that her FIP case would close effective June 1, 2013, ongoing, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of April 1, 2011. Exhibit 1.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A (January 2013), p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 9.

Determination of a long-term disability is a three step process. BEM 230A, p. 10. The client must fully cooperate with both steps. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 10. Step three involves the referral to MRT. See BEM 230A,

pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

After a Medical Review Team decision has been completed and the client states they have new medical evidence or a new condition resulting in disability greater than 90 days, the Department gathers the new verification and sends for an updated MRT decision. BEM 230A, pp. 12-13. If new medical evidence is not provided, the Department does not send the case back to the Medical Review Team. BEM 230A, p. 13. The previous MRT decision stands. BEM 230A, p. 13.

When a request for deferral is granted the Department: (i) enters the supporting information in the system; (ii) determine the length of the deferral; (iii) notify the client of the decision and length of deferral; and (iv) documents the decision. BEM 230A, p. 16. The system sends the Department a reminder for a follow-up to review the deferral four calendar days before the end of the month before it is to expire. BEM 230A, p. 16.

At the hearing, Claimant testified that she is still disabled due to multiple medical conditions. Claimant testified that she did remember her doctor submitting the requested medical documents in September 2012. Claimant testified that she last participated in the PATH program in August 2012.

It should be noted that the Department failed to provide a copy of the January 2013 MRT denial. It should also be noted that a review of the Michigan FIP Time Limit document that the Department provided contains inconsistencies regarding Claimant's participation in the PATH program. See Exhibit 1. For example, between October 2012 through April 2013, the time limit document indicates the Claimant is incapacitated to work; however, it also indicates she has to participant in the PATH program. See Exhibit 1. Additionally, if the Department is claiming that Claimant's deferral ended in January 2013, the Department did not close Claimant's case at that time. Claimant had exceeded the lifetime limit receipt of FIP assistance as of April 1, 2011 and the Department did not close her benefits more than four months after the alleged deferral ended.

Based on the foregoing evidence and testimony, the Department improperly closed Claimant's FIP benefits. First, the Department failed to present the MRT denial indicating that Claimant's deferral status had ended in January 2013. Second, Claimant is claiming that she is still incapacitated and is unable to participate in the PATH program. Claimant should be deferred in the system pending an MRT decision based on the Department obtaining new medical evidence. BEM 230A, p. 9. Third, there are several inconsistencies in the time limit documents as discussed in detail above. Nevertheless, Claimant will be placed back in deferral status pending the MRT decision.

Thus, the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective June 1, 2013 for reaching the 60-month federal time limit as of April 1, 2011.

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 did not act properly.

Accordingly, the Department's FIP eligibility determination is REVERSED.

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

1. Initiate reinstatement of Claimant's FIP case as of June 1, 2013, ongoing;
2. Begin placing Claimant into deferred status from the PATH program and the Department shall gather the new medical verifications and send it to MRT for an updated decision;
3. Begin recalculating the FIP budget for June 1, 2013, ongoing, in accordance with Department policy;
4. Begin issuing supplements for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for June 1, 2013, ongoing, in accordance with department policy; and
5. Begin notifying Claimant of the FIP determination in accordance with Department policy.



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

Date Signed: August 16, 2013

Date Mailed: August 16, 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

EJF/cl

cc:

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