

**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.: 2013-53325
Issue No.: 1080
Case No.: ██████████
Hearing Date: July 17, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received by the Department of Human Services (Department) on June 17, 2013. After due notice, a telephone hearing was held on July 17, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department included ██████████ Family Independence Specialist.

ISSUE

Whether the Department properly determined that Claimant has exceeded the 60-month federal lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception.

Whether the Department properly calculated the amount of Claimant's Food Assistance Program (FAP) 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. Claimant submitted an application for FAP on May 24, 2013.
3. On May 21, 2013, the Department notified Claimant that her FIP case would close effective July 1, 2013, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of May 1, 2013.

4. On June 17, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action on the basis that she had not received FIP in excess of 60 months and that she does not agree with the amount of FAP benefits she is receiving.

CONCLUSIONS OF LAW

FIP

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 (June 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, the Department presented a federal FIP time limit summary showing that Claimant had received FIP benefits for 60 non-consecutive months between November 1996 and May 2013. (Exhibit 1). Claimant disputed this and testified that she did not receive any FIP benefits for any of the months in the years of 1997, 1998 and 1999. Claimant stated that during that period of time, she had a job for a short time then became involved in selling drugs. Claimant testified that she did not reapply for FIP benefits until January 2000. However, the Department produced a benefit summary inquiry and other credible documentation showing that the Department had issued monthly FIP benefits in varying amounts to Claimant during this period. (Exhibit 3) This evidence was sufficient to establish, by a preponderance of the evidence, that FIP benefits were issued to Claimant between the years 1997 and 2000. Thus, the Department established that Claimant had received FIP benefits for 60 months. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case effective July 1, 2013 for reaching the 60-month federal time limit.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, et seq., and Mich Admin Code Rule 400.3001 through Rule 400.3015.

In this case, Claimant submitted an application for FAP benefits on May 24, 2013. This application was registered and processed. Claimant was approved for monthly FAP benefits in the amount of \$302.00, effective June 1, 2013. Claimant requested a hearing disputing this amount of FAP benefits.

At the hearing, the budget from the FAP EDG Net Income Results for the June 2013 benefit period was reviewed. (Exhibit 4). The Department concluded that Claimant had earned income of \$1,720.00. The Department testified that in calculating Claimant's monthly earned income, it used the information provided on Claimant's application that she receives \$422.00 bi-weekly. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. Claimant testified that she is employed as a paid service worker through an [REDACTED] Program. Participants in [REDACTED], a national community service program, may receive any or all of the following: living allowance, child care allowance, health insurance, services to individuals with disabilities and national service education award. BEM 501 (July 2012), p. 3. For FAP purposes, the Department is to exclude all allowances and benefits received from participation in [REDACTED] as income and as assets. BEM 501, p. 3.

Claimant presented a letter from the program director at [REDACTED] where she is employed. This letter confirms that Claimant receives a living allowance of \$3,249.91 every quarter, which is distributed bi-weekly, in the amount of \$464.27. (Exhibit A). Claimant stated that she submitted a copy of this letter with her application. Because Claimant is paid through [REDACTED] her income should not have been included for FAP purposes. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's FAP 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 act in accordance with Department policy when it closed Claimant's FIP case because she had reached the 60 month federal time limit. Accordingly, the Department's FIP decision is AFFIRMED.

It is further found that the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits. Accordingly, the Department's FAP 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. Begin recalculating Claimant's FAP budget for July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from July 1, 2013, ongoing; and
3. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 25, 2013

Date Mailed: July 25, 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.

2013-53325/ZB

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

ZB/cl

cc:

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