

**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.: 2013-56232
Issue No.: 1018, 3003
Case No.: ██████████
Hearing Date: August 1, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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. After due notice, a telephone hearing was held on Thursday, August 1, 2013, from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████.

ISSUES

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 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 and FAP benefits.
2. On June 19, 2013, the Department notified Claimant that her FIP case would close effective August 1, 2013, because she had exceeded the 60-month federal lifetime limit on receipt of FIP as of September 2011. (Exhibits 1, 2, 3)
3. On this same Notice of Case Action, the Department notified Claimant that as of August 2013, her FAP benefits would increase to \$675.00. (Exhibits 2, 3)

4. On June 27, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's actions.

CONCLUSIONS OF LAW

As a preliminary matter, Claimant requested a hearing regarding her FIP and FAP benefits. As such, each will be addressed separately.

Termination of FIP benefits

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 1, 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, or caring for a spouse or child with disabilities. BEM 234 (June 1, 2013), p. 2; 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 last received Federally-funded FIP benefits in September 2011. Subsequently, Claimant's FIP benefits were State-funded. In January 2013, Claimant was (and is) the care provider for five children; two of which are receiving Supplemental Security Income ("SSI") as disabled children. The State-funded counter, in January 2013, shows Claimant as establishing incapacity, deferred, and in non-cooperation with employment and training. This is in error. As stated, Claimant cares for two children with disabilities, therefore is exempt from participation in the PATH program. Ultimately, the Department failed to establish it acted in accordance with Department policy when it terminated Claimant's FIP benefits effective August 1, 2013 based on exceeding the Federal time limits when in January 2013, Claimant, whose benefits were State-funded, was exempt from participation. Accordingly, the Department's termination of FIP benefits is REVERSED.

FAP benefits

The Food Assistance Program (“FAP”), formerly known as the Food Stamp 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. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through Rule 400.3015.

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212, p. 1 (November 2012). Shelter expense is an allowable expense and includes rent payments. BEM 554 (October 2012), p. 10. In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554, pp.11, 12.

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), p. 3.). The gross amount of current SSA-issued SSI benefits is counted as unearned income. BEM 503 (May 2013), p. 24.

In this case, a review of the FAP budget confirmed that the Department included Claimant’s children’s gross SSI payments when determining FIP eligibility. (Prior to the FIP closure, Claimant’s FIP income was also included.) The Department included the correct group size, shelter obligation, and included the heat/utility standard. Upon review, Claimant agreed with the figures used in determining FAP eligibility. That being stated, because Claimant’s FIP benefits will be reinstated, the Department will be required to re-do the FAP budget to include Claimant’s FIP benefits as of August 2012. Despite this, based on Claimant’s situation at the time of the Notice of Case Action, the Department established it properly calculated Claimant’s FAP budget. Accordingly, the Department’s FAP determination is AFFIRMED.

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 the Department failed to establish it acted in accordance with Department policy when it terminated Claimant’s FIP benefits based on the Federal time limits. The FIP termination is REVERSED. It is further found that the Department’s FAP determination is AFFIRMED.

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 from the date of closure in accordance with Department policy.

2. Initiate supplementing Claimant FIP benefits that she was entitled to receive but did not in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 6, 2013

Date Mailed: August 7, 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 affect 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

CMM/tm

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