

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

**IN THE MATTER OF:**

██████████  
████████████████████  
████████████████████

Reg. No.: 2014-8269  
Issue No(s): 1010  
Case No.: ██████████  
Hearing Date: January 9, 2014  
County: Wayne (43)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**HEARING DECISION**

Upon Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37, and Title 45 of the Code of Federal Regulations (CFR), particularly 45 CFR 205.10. After due notice, a telephone hearing was held on January 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department or DHS included ██████████ ██████████, Partnership. Accountability. Training. Hope. (PATH) Caseworker.

**ISSUE**

Did the Department properly determine that Claimant exceeded the 60-month federal lifetime limit on Family Independence Program (FIP) benefits and was not eligible for an exception?

**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 was deferred from the PATH program due to her being incapacitated. See Exhibit 1.
3. On September 12, 2013, the Department sent Claimant a Medical Determination Verification Checklist. See Exhibit 1.

4. On October 2, 2013, the Department notified Claimant that her FIP case would close effective November 1, 2013, ongoing, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 1, 2011. Exhibit 1.
5. On October 14, 2013, Claimant filed a hearing request, protesting her FIP case closure. See Exhibit 1.

### **CONCLUSIONS OF LAW**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. 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 (July 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 they are eligible for an exception to the federal time limit. An exception exists for individuals who were, as of January 9, 2013, (1) approved/active for FIP benefits **and** (2) exempt from participation in the PATH program for domestic violence, establishing incapacity, incapacitated more than 90 days, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2; MCL 400.57a(4). The exception continues as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p. 1.

In this case, Claimant was an ongoing recipient of FIP benefits. Claimant was deferred from the PATH program due to her being incapacitated. See Exhibit 1. A review of Claimant's Michigan FIP Time Limit indicated that she was deferred for incapacitated from July 2012 to June 2013. See Exhibit 1. Also, the document indicated that Claimant was a federal exception from July 2013 to October 2013. See Exhibit 1. It should be noted that the document also indicates that during a portion of the time she was incapacitated, it also indicated she was a mandatory participant. Nevertheless, it appears that the Department removed Claimant's deferral status and on October 2, 2013, the Department notified Claimant that her FIP case would close effective November 1, 2013, ongoing, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of September 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 (October 2013), p. 12. Conditions include medical

problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT decision. BEM 230A, p. 12. Step three involves the referral to MRT. See BEM 230A, p. 13. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 13.

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, p. 16. If new medical evidence is not provided, the Department does not send the case back to the Medical Review Team. BEM 230A, p. 16. The previous MRT decision stands. BEM 230A, p. 16.

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. 20. 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. 20.

At the hearing, Claimant is still claiming a disability. This is supported by the fact that the Department's own records indicate that it sent her a Medical Determination Verification Checklist on September 12, 2013. See Exhibit 1. On September 12, 2013, the Department also sent Claimant a Medical Examination Report, Medical Social Questionnaire, Activities of Daily Living, Medical Needs – PATH , and Authorization to Release Protected Health. See Exhibit 1. It appears the due date for the documents was on or around September 23, 2013. Claimant testified that she spoke to her DHS caseworker a week prior to the due date. Claimant testified that she told her DHS caseworker that she is able to complete her documents, however, the Medical Needs – PATH and Medical Examination Report will take additional time as it has to be completed by her physician. Claimant testified she told her DHS caseworker that she had an appointment with her physician on September 24, 2013.

Additionally, Claimant testified that she mailed the forms that she could complete to the Department before the due date. Moreover, Claimant testified that her physician completed the Medical Needs – PATH and Medical Examination Report on October 31, 2013. Claimant testified she obtained these documents from her physician and mailed it to the Department. Claimant did provide both those document as an exhibit, which does indicate she had an appointment on September 24, 2013 and her physician completed it on October 31, 2013. See Exhibit A. The Medical Examination Report also indicated that her physician did state her limitation is expected to last more than 90

days. See Exhibit A. It should be noted that the Department acknowledged such a conversation with the Claimant in September 2013. However, the Department could not acknowledge whether it received her medical packet.

Based on the foregoing evidence and testimony, the Department improperly closed Claimant's FIP benefits effective November 1, 2013, ongoing.

First, it appears that the Department removed Claimant's deferral, which ultimately led to her case being closed due to exceeding the time limits. However, the Department should have continued her deferral status until it obtained a MRT decision. Claimant provided credible testimony and evidence that she claimed an incapacitation to participate in the work or PATH program for more than 90 days. This is supported by the fact that the Department's own correspondence history shows that it sent her a Medical Determination Verification Checklist on September 12, 2013. See Exhibit 1. The Department sends these medical verifications in order to obtain a MRT decision. BEM 230A, p. 12. The Claimant should be deferred from the PATH program pending the MRT decision. See BEM 230A, pp. 12-13. It is reasonable to conclude that the Department would not have sent such documentation if the Claimant did not allege a disability.

Second, Claimant provided credible testimony and evidence that she submitted a completed medical packet. Claimant credibly testified that she sent her completed documents before the due date. Additionally, Claimant notified that Department that it will take additional time to have her physician complete the Medical Needs – PATH and Medical Examination Report. For MA cases, if the client cannot provide the verification despite a reasonable effort, the Department extends the time limit up to three times. BAM 130 (July 2013), p. 6. The Department should have extended the time limit for the Claimant as she properly notified it that her doctor's appointment is after the VCL due date. Again, Claimant's testimony is supported by her providing the medical documents as exhibits, which indicate she had an appointment on September 24, 2013 and her physician completed it on October 31, 2013. See Exhibit A. Therefore, it is reasonable to conclude that the Claimant did submit a completed medical packet to the Department.

In summary, the evidence indicated that the Claimant's deferral should have continued pending a MRT decision. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective November 1, 2013 for reaching the 60-month federal time limit as of September 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, if any, finds that the Department did not act in accordance with Department policy when it improperly closed Claimant's FIP benefits effective November 1, 2013, ongoing.

Accordingly, the Department's FIP eligibility decision is  AFFIRMED  REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate Claimant's FIP case as of November 1, 2013, ongoing;
2. The Department shall place 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 in accordance with Department policy;
3. The Department shall begin recalculating the FIP budget for November 1, 2013, ongoing, in accordance with Department policy;
4. The Department shall supplement for FIP benefits that Claimant was entitled to receive if otherwise eligible and qualified for November 1, 2013, ongoing, in accordance with department policy; and
5. The Department shall notify 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: January 16, 2014

Date Mailed: January 16, 2014

**NOTICE OF APPEAL:** 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.

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).

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]