

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

IN THE MATTER OF:



Reg. No.: 201412318
Issue No.: 1010
Case No.: [REDACTED]
Hearing Date: January 23, 2014
County: Wayne (76)

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 upon the Claimant's request for a hearing received by the Department of Human Services (Department) on November 7, 2013. After due notice, a telephone hearing was held on January 23, 2014, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant. Participants on behalf of the Department included [REDACTED], Family Independence Specialist.

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. On November 4, 2013, the Department sent Claimant a Notice of Case Action informing her that her FIP case closed effective October 31, 2013, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
3. On November 7, 2013, the Department received the Claimant's Request for Hearing, disputing the Department's action.

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 (June 1, 2013), p 1. Under Department policy, an individual is not eligible for continued FIP benefits upon receiving a cumulative total of 60 months of FIP benefits, unless the individual qualifies for an exception to the federal time limit. An exception is available if the individual was as of January 9, 2013 (1) approved/active for FIP benefits **and** (2) exempt from participation in the Partnership.Accountability.Training.Hope (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, pp 1-2; MCL 400.57a(4). The federal limit count begins October 1996. BEM 234, p 1.

In this case, the Department presented into evidence a Federal TANF Time Limit that showed that it issued 60 countable months of FIP benefits to Claimant between October 1996 and October 2013. While Claimant testified that she did not recall receiving FIP benefits for 60 months, she did not dispute receipt of FIP benefits for any of the months indicated on the chart. In the absence of any evidence to the contrary, the Department satisfied its burden of showing that Claimant received FIP benefits in excess of the 60-month federal time limit. Because the chart showed, and Claimant acknowledged, that Claimant did not receive FIP benefits in January 2013, she was not eligible for an exception to the federal time limit.

While the Department acted in accordance with Department policy in finding that Claimant was no longer eligible for FIP benefits because she had received benefits in excess of the time limit, the Department was required to provide timely notice of the closure of Claimant's FIP case. BAM 220 (July 2013), pp. 2-5. The Department did not provide a copy of the relevant notice of case action into evidence in this case. However, the Department testified that it notified Claimant on November 4, 2013, that her FIP case closed effective October 31, 2013 and the time limit chart shows that Claimant last received FIP benefits for October 2013. Timely notice is mailed at least 11 days before the intended negative action takes effect in order to provide the client a chance to react to the proposed action. BAM 220, p. 4. Therefore, a notice of case action mailed on November 4, 2013 would affect December 2013 FIP benefits.

Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case for reaching the 60-month federal time limit but did not act in accordance with Department policy when it failed to provide timely notice of its action.

DECISION AND ORDER

Accordingly, the Department's FIP decision is AFFIRMED IN PART concerning the closure of Claimant's FIP case but REVERSED IN PART with respect to the failure to issue FIP benefits for November 2013.

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. Issue a FIP supplement to Claimant for November 2013.


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

Date Signed: February 4, 2014

Date Mailed: February 4, 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:

2014-12318/ACE

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

ACE/tlf

cc:

