

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 2014-21175  
Issue No(s): 1010  
Case No.: ██████████  
Hearing Date: March 10, 2014  
County: Wayne (31)

**ADMINISTRATIVE LAW JUDGE:** Robert J. Chavez

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on March 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ and AHR ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ and ██████████ of ██████████.

**ISSUE**

Did the Department properly close claimant's FIP benefits for exceeding the State 48-month lifetime limit on Family Independence Progra (FIP) 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 a FIP recipient in Wayne County.
2. On June 24, 2013, claimant was sent a notice of case action notifying claimant that her FIP benefits would be terminated effective August 1, 2013, for exceeding the State time limits for receipt of FIP benefits.
3. On July 2, 2013, claimant requested a hearing.
4. On September 4, 2013, a hearing was held before Administrative Law Judge Colleen M. Mamelka.

5. On September 9, 2013, ALJ Mamelka issued a decision holding that the Department had failed to meet their burden of proof in establishing that the claimant was ineligible for FIP benefits by virtue of exceeding the 48 month time limit.
6. ALJ Mamelka ordered, in part, that the Department was to “reinstate Claimant’s FIP benefits as of August 1, 2013, in accordance with Department policy.”
7. On September 24, 2013, the Department reinstated claimant’s FIP benefits for the month of August, 2013 only.
8. On September 24, 2013, claimant was sent a DHS-1605-E, Client Benefit Notice, stating that she had exceeded the 48 month time limit, would receive FIP benefits only for August, 2013, and that her FIP case was closed as of September 1, 2013.
9. On December 26, 2013, claimant requested a hearing, disputing the closure of her FIP benefits, and arguing that she had not met the 48 month time limit for FIP benefit receipt.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

The FIP benefit program is not an entitlement. BEM 234 (2013), p. 1. Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family’s movement to self-sufficiency. BEM 234, p. 1. Effective October 1, 2011, BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for State-funded FIP cases for which no months were exempt. BEM 234, p. 1.

The 48-month lifetime limit for State-funded FIP cases allows exemption months in which an individual does not receive a count towards the individual’s 48-month lifetime limit. BEM 234, p. 3. Exemption months are months the individual is deferred from the Partnership.Accountability.Training.Hope. (PATH) program for (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability or long-term incapacity lasting longer than 90 days (including establishing incapacity); or (iv) being a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM

234, pp 3-4. FIP benefits received prior to October 1, 2006, are **not** State-funded. BEM 234, pp. 2-3.

Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets an exemption criteria. BEM 234, p. 6.

Claimant argued at hearing that 6 of the months counted by the Department for FIP receipt should not have counted toward her time limit because she was in a domestic violence situation.

Unfortunately, BEM 234 only allows for exemption of the months in question if a client has been deferred from the PATH program, which does not appear to be the situation in the current case.

While there were Department case notes (Claimant Exhibit A) that show that claimant was indeed experiencing a domestic violence situation, it does not appear that claimant was ever excluded from the PATH program. Furthermore, claimant was subsequently referred to triage for failing to attend PATH while in this situation; claimant was found to have no good cause for failing to attend PATH at this time, and was sanctioned for the noncompliance. While claimant did request a hearing regarding the matter, it does not appear that claimant attended the hearing, per MAHS records that the undersigned has taken notice of, and the preceding Department decision became final.

The undersigned states no opinion as to whether the Department's decision regarding whether to exclude claimant from PATH was the correct one, nor does the undersigned opine as to whether it was correct to levy a sanction against a claimant experiencing domestic violence.

The Administrative Law Judge may only stick to the facts in the current case, which is that, during the months in question, claimant was not deferred from the PATH program for domestic violence. Whether this was correct or not is irrelevant; what is relevant is that the situation was already litigated through an administrative hearing, and the Department's decision in that case was made final by the result of the administrative hearing in that matter. As a general rule, an Administrative Law Judge may not reopen facts that have already been litigated, and as such, the undersigned cannot, and will not, re-litigate the matter as to whether claimant should have been deferred from PATH during the time period she alleges.

As a result, while claimant does dispute the months in question, there is no evidence that claimant was deferred from the PATH program during those months, and the undersigned must hold that the Department properly calculated claimant's months for the purposes of receipt of FIP benefits.

This was not the only issue in the case, however. The undersigned must also decide whether the Department properly implemented ALJ Mamelka's decision of September

9, 2013. After a review of the plain language of the decision, the undersigned holds that the Department failed to properly implement the decision in question.

On September 9, 2013, ALJ Mamelka specifically ordered the Department to “Reinstate Claimant’s FIP benefits as of August 1, 2013, in accordance with Department policy”.

This order was retroactive from September 9, and did not state in any way that the effect was limited to the month of August, 2013 only. Therefore, the Department was in error when it only reopened claimant’s FIP benefits for August, 2013.

Per BAM 220, a case closure requires timely notice. Timely notice means that an action is effective at least 12 calendar days following the date of the department’s action. BAM 220, pg. 12.

Given that the Department sent claimant a DHS-1605-E on September 24, 2013, informing claimant that her FIP benefits would be closing, and citing the applicable policy, thereby constituting timely notice, the Department could not close the case per BAM 220 until October 6, 2013. Therefore, the first benefit month that could be affected by the closure would be November, 2013, and the Department erred by closing the case effective September 1, 2013 without providing timely notice of the closure.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

- acted in accordance with Department policy when it closed claimant's FIP case for exceeding the 48 month state time limit.
- did not act in accordance with Department policy when it closed claimant's FIP case without first providing timely notice.

### **DECISION AND ORDER**

Accordingly, the Department’s decision is

- AFFIRMED IN PART with respect to the ultimate closure of the FIP case and REVERSED IN PART with respect to the date of that closure.
- 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 claimant FIP benefits for the month of September, 2013 and October, 2013.



**Robert J. Chavez**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 2, 2014

Date Mailed: April 2, 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

RJC/tm

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]