

**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.: 14-006532
Issue No(s): 1010, 3001
Case No.: ██████████
Hearing Date: August 6, 2014
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, a telephone hearing was held on August 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Hearing Facilitator; ██████████ Case Manager; and ██████████, Observer.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case because she was no longer deferred from PATH participation and had exceeded the time allowed for eligibility?

Did the Department redetermine Claimant's eligibility for Food Assistance Program (FAP) benefits as ordered?

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 FIP recipient since at least 2002.
2. Claimant had been deferred from participation in the PATH program for an extended period of time due to a disability.

3. On June 18, 2014, the Department was ordered to send medical documentation to the Medical Review Team (MRT) to determine whether Claimant was still disabled.
4. On June 18, 2014, the Department was also ordered to redetermine Claimant's eligibility for FAP benefits for May 2014.
5. The Department sent the required documentation to the MRT team but failed to redetermine Claimant's eligibility for FAP benefits for May 2014.
6. On June 30, 2014, the MRT team completed a Medical-Social Eligibility Certification in which it found Claimant to be work-ready with limitations.
7. On July 1, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close because she had exceeded the allowable time for eligibility.
8. On July 7, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

FIP

At the hearing, Claimant stated that she wished to contest the denial of the deferral from the PATH program. The undersigned has no authority and/or jurisdiction to reverse MRT's decision for Claimant as it relates to a denial of a PATH deferral. Department policy states that when a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A (October 2013), p. 20. The MRT decision simply denied Claimant's request for deferral from the PATH program which meant the Department

was required to re-refer her to the PATH program. Because the denial of a deferral is not considered to be a loss of benefits, termination or negative action, it cannot be appealed. The termination of benefits was the result of Claimant having exceeded the Federal time limit which was a negative action. As such, this decision will only address whether the Department properly closed Claimant's FIP case because she exceeded the Federal time limit.

Additionally, Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established a five-year (60month) lifetime limit on assistance for adult-headed families. The begin date for the federal time limit counter is Oct. 1, 1996. In line with the goals of the Family Independence Program, any group that includes an individual who has received 60 months or more of FIP is not eligible for the FIP program. BEM 234 (July 2013), pp. 1-2. The Department presented a summary of benefits received which count towards the Federal TANF Time Limit. The summary outlined FIP benefits Claimant received from April 2002 through September 2011. It should be noted that because Claimant was in deferral status, she received benefits through July 31, 2014 when her FIP case closed. Further, Claimant does not dispute that she received more than 60 months of FIP benefits.

Claimant had been previously deferred from participation in the PATH program. Department policy allows a person to continue receiving FIP benefits after they have exceeded the time limit if they are in deferral status. The relevant Department policy states as follows:

Michigan will provide an exception to the federal 60 month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

An approved/active ongoing FIP EDG **and**

- Who was exempt from participation in the Partnership. Accountability. Training. Hope. (PATH) program for: Domestic violence.
- Age 65 or older.
- Establishing incapacity.
- Incapacitated more than 90 days.
- Care of a spouse with disabilities.
- Care of a child with disabilities.

The exception continues as long as:

- The individual's ongoing FIP EDG reaches 60 TANF federal months **and** the individual remains one of the above employment

deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.

- The individual, at application, is approved as **any** of the above employment deferral reasons. In these instances, the FIP EDG will be state funded.

The exception ends once one of the above individuals **no** longer qualifies for one of the above employment deferral reasons or they **no** longer meet other standard eligibility criteria for FIP. The FIP EDG will close or the application will be denied.

On June 18, 2014, a hearing was held regarding the closure of Claimant's FIP case. The Department was ordered to reinstate Claimant's FIP benefits and forward documents to the MRT team so a determination could be made regarding Claimant's disability. On June 30, 2014, the MRT team issued a Medical-Social Eligibility Certification which stated that Claimant was work-ready with limitations. As a result, Claimant's deferral from the PATH program ended. Claimant testified that she had previously applied for Social Security Disability and had been denied. Claimant indicated that she intends to reapply for Social Security Disability benefits. Because Claimant was no longer deferred from the PATH program and because she had exceeded the 60 month time limit, the Department sent Claimant a Notice of Case Action notifying her that her case would close.

Claimant testified that she is married. While it is unclear if Claimant's husband has also exceeded the Federal time limit, because Claimant has exceeded the time limit, the group's FIP case closed. Specifically, Department policy states that two parent families will have individual FIP time limit counts. The parent with the highest FIP time limit count is applied to the FIP group's time limit. Once the parent with the highest count reaches the maximum time limit, FIP shall close. BEM 234, p. 6.

There is no dispute that Claimant has received more than 60 months of FIP benefits. Further, because Claimant was no longer in deferral status from the PATH program, it is found that the Department properly closed Claimant's FIP case.

FAP

On June 18, 2014, Claimant had a hearing in which the Department was ordered to redetermine her eligibility for FAP benefits for May 2014. The Department acknowledged that since June 18, 2014, no supplements have been given for May 2014. Further, the Department was unable to determine whether a Notice of Case Action had been sent regarding Claimant's eligibility for FAP benefits in May 2014. The June 18, 2014 decision specifically required the Department to notify Claimant in writing of its decision. Claimant testified that she has not received any correspondence or supplements regarding May 2014 FAP benefits. It is therefore found that the Department failed to recalculate Claimant's eligibility for FAP benefits for May 2014 in accordance with the June 18, 2014 order.

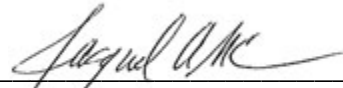
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted properly when it closed Claimant's FIP case after she was no longer in deferral status and she had exceeded the Federal time limit. However, the undersigned finds that the Department did not act in accordance with policy when it failed to redetermine Claimant's eligibility for FAP benefits for May 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** in part and **REVERSED** in part.

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. Recalculate Claimant's eligibility for FAP benefits for May 2014;
2. Issue any supplements Claimant was eligible to receive but did not for May 2014; and
3. Notify Claimant in writing of its decision.



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 19, 2014

Date Mailed: August 19, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

JAM/cl

cc: [REDACTED]
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