

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

IN THE MATTER OF:



Reg. No.: 14-002328
Issue No.: 1008, 1010
Case No.: [REDACTED]
Hearing Date: August 4, 2014
County: WAYNE-41 (FORT WAYNE)

ADMINISTRATIVE LAW JUDGE: ALJ Lynn M. Ferris

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 04, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Coordinator.

ISSUE

Did the Department properly close the Claimant's FIP case due to exceeding the Federal Time limit of 60 months?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FIP cash assistance. The Claimant had been previously deferred due to establishing incapacity.
2. The Claimant was sent an MRT packet with a due date of 3/17/14, which was extended until 3/27/14.
3. The Department issue a Notice of Case Action on April 14, 2014 closing the Claimant's FIP cash program effective May 1, 2014. The Department closed the FIP case due to the Claimant exceeding the 60-month Federal limit for receipt of cash assistance program benefits. Exhibit 5

4. The Department sent the Claimant a Medical Determination Verification Checklist on March 7, 2014 requesting verification of disability with a due date of March 17, 2014, which was extended, to March 27, 2014. Exhibit 3
5. The Claimant provided a Medical Needs – Path Form 54 E received by the Department March 18, 2014, which was completed by her doctor. Exhibit 4
6. The Claimant provided the MRT forms to her doctors; however, the Department did not receive any of the forms from her doctor's. The Claimant spoke with her psychiatrist and her neurologist at Mid West Health Center; both of the doctors said they returned the forms to the Department.
7. The Department had not previously requested an MRT review of the Claimant's disability and deferral.
8. The Department did not send the Medical Needs – Path Form 54 E to the MRT.
9. A Federal Time Limit counter showed that as of July 2011 the Claimant had 69 countable months.
10. The Claimant requested a hearing on May 9, 2014.

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.

Additionally, the issue in this case is whether the Department properly closed the Claimant's FIP case for exceeding the 60 month Federal Time Limit. The Federal time counter was submitted as evidence and only provided information through July 2011 and not through the present. No State of Michigan FIP counter was provided. The counter showed that the Claimant had received 69 months of FIP benefits. Exhibit 1.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program unless deferred. BEM 230A. (10/1/14). The Department when it reviewed the Claimant's case discovered that the Claimant's deferral for Path had never been reviewed by the MRT. The Claimant had been

deferred for many years. BEM 230A provides that all deferrals of more than 90 days must be reviewed by the MRT. The deferral process is a 3-step process. The Claimant must be deferred by the Department in Bridges and

Once a client claims a disability, he/she must provide DHS with verification of the disability when requested. The verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant; see Verification Sources in this item.

For verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation; see BAM 815, Medical Determination and Obtaining Medical Evidence.

Submit all required medical documentation to the MRT; see

BAM 815, Medical Determination and Obtaining Medical Evidence. BEM 230a PP. 12-13, (10/1/14)

BEM 230A requires that disability be verified as follows:

- **Disability.** If the client claims a disabling condition expected to last more than 90 days, it must be verified by one of the following:

Note from client's doctor.
DHS-49.
DHS-54A.
DHS-54E

BEM 230A pp. 25

In this case, the Department did not have the case file at the hearing and thus it could not be determined whether the Claimant returned the DSH 49 F (Medical Social Questionnaire) and DHS 1555 (Authorization to Release Protected Health Information). The Claimant did return a DHS 54 E Path Medical Needs signed by her doctor and the Activities of Daily Living DHS 49 G. The Claimant testified that she did complete the DHS 49 G Activities of Daily Living. The Department did not receive the remainder of the MRT medical forms. The Claimant credibly testified that she provided the DHS 49 forms to her doctors who had advised her that they returned the forms to the

Department. Department policy found in BAM 815 provides that when a client provides a completed DHS 49 F and DHS 1555, in response to a Medical Determination VCL, the Department specialist must forward these documents to the Medical Review Team. BAM 815 pp. 3-5 (July 2013). Because no evidence as to whether the Department received the DHS 49 F and DHS 1555, it cannot be determined whether the Department was required to submit these documents to the MRT for their review. At the hearing, the Department took the position that because the entire packet was not returned the packet was not submitted to the MRT. Because it cannot be determined what documents were completed, the Department has not met its burden of proof on the issue of what documents were completed and submitted to the Department.

In addition, it is apparent that the Claimant continued to receive FIP benefits until her FIP case was closed by Notice of Case Action dated 4/14/14 effective 5/1/14. Given the ongoing PATH deferral, it is reasonable to presume that the Department ended the deferral when the complete MRT packet was not returned. The Department determined that this act caused the Claimant to be ineligible for FIP benefits due to exceeding the 60 month Federal Limit.

Effective January 9, 2013 by policy Bulletin BPB 2013-006 (3/1/13) an exception was created in Department Policy, which provides:

The Federal 60-month time limit policy does not apply to individuals who met the following criteria on January 9, 2013: an approve/active ongoing FIP EDG;

and

Who was exempt from participation in the PATH program for:
... Establishing Incapacity.

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 Federal exception ends once one of the above individuals no longer qualifies for one of the above employment deferral criteria, as well as other standard eligibility criteria. The FIP EDG will close or the application will be denied.

In this case, because it cannot be determined whether the Department received, and thus should have sent the DHS 1555 and DHS 49 F to the MRT for its review and determination, it cannot be determined whether the Claimant's FIP PATH deferral was properly ended. If the deferral was improperly ended, then the closure based upon exceeding the Federal 60 month time limit was improper.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's FIP case due to exceeding the 60 month FIP federal time limit and whether it followed Department policy regarding submission of the Medical information to MRT for a determination regarding the Claimant's deferral from PATH.

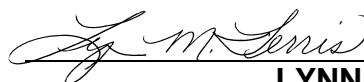
DECISION AND ORDER

Accordingly, the Department's decision is

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 the Claimant's FIP case and determine whether the Claimant provided the required DHS 49 F (Medical Social Questionnaire) and DHS 1555 (authorization to release protected health information) and if the Claimant provided these forms, the Department is required to submit the forms to the MRT for a determination of a PATH Deferral and process the case thereafter in accordance with Department policy.
2. The Department shall issue a FIP supplement to the Claimant from the date of FIP closure ongoing in the amount the Claimant received prior to the Department's closure of her FIP case.



LYNN M. FERRIS

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 15, 2014

Date Mailed: September 15, 2014

LMF/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

