

**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.: 14-003396
Issue No.: 1008
Case No.: ██████████
Hearing Date: AUGUST 14, 2014
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearings Facilitator, and ██████████, JET Case Manager.

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP) benefits on the basis that she exceeded the 60-month federal lifetime limit on 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. On April 30, 2014, Claimant applied for FIP benefits.
2. On May 8, 2014, the Department denied Claimant's FIP application on the basis that she had received 81 months of federally-funded FIP assistance, more than the 60 months of assistance allowed for eligibility.
3. On May 20, 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.

Additionally, 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. BEM 234, p. 2. An exception exists for individuals who were, as of January 9, 2013, (i) approved for FIP benefits **and** (ii) exempt from participation in the Partnership.Accountability.Training.Hope (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p 1.

In this case, in a May 8, 2014 Notice of Case Action, the Department denied Claimant's April 30, 2014 FIP application because she had received FIP benefits in excess of the 60-month federal limit. The evidence at the hearing established that Claimant was not an active FIP recipient in January 2013. Therefore, she is not eligible for a federal exception to the 60 month federal FIP time limit.

At the hearing, Claimant challenged the Department's conclusion that she had received more than 60 months of federally-funded FIP benefits. The Department presented a federal TANF time limit chart showing all of the months that Claimant had received FIP benefits that had been counted towards her federal time limit. A total of 81 months of FIP receipt since January 2002 are shown on the chart.

Claimant contends that all months she received FIP between October 2006 and March 2011 should not have been countable months towards the federal time limit because those months should have been state-funded months. Each month an individual receives federally-funded FIP, the individual receives a count of one month. BEM 234, p. 2. Any month that an individual's FIP assistance is state-funded is **not** a countable month toward the federal time limit count. BEM 234, p. 3. A FIP case is state-funded when the FIP group has a parent deferred from PATH (or applicable work participation program) due to a verified disability or long-term incapacity lasting longer than 90 days, including a PATH Deferral/Participation reason in Bridges of "establishing incapacity." BEM 234, p. 3. Months prior to October 1, 2006 were federally-funded. BEM 234, p. 3.

October 2006 to November 2007

Claimant first argues that the federal time limit counter should exclude the months between October 2006 and November 2007. Both the federal and state time limit counters show that between October 2006 and November 2007, Claimant was a mandatory participant in the PATH program. In support of her case that she was deferred from participation in the work-participation program during those months, and consequently her FIP grant during those months was state-funded, Claimant presented medical documentation, including medical needs forms, DHS-54A, showing her physical ailments. However, Claimant's medical documents do not support her position that she was deemed disabled by the Social Security Administration, which was a condition to receiving a PATH deferral for a long-term incapacity prior to October 2007. See Program Eligibility Manual (PEM) 230A (July 2006), p. 7. Furthermore, the Medical Needs form completed by Claimant's doctor in June 2006 and September 2007 show that Claimant was limited to working up to 10 hours per week. Individuals with medical limitations or in need of modifications are required to participate in the work participation program with accommodations to meet their particular needs. PEM (July 2006) 230A, pp. 7-8; PEM 230A (October 2007), pp. 3, 4-5. Therefore, even if Claimant was limited in the number of hours she could participate in the work participation program, she was not be classified as deferred from participation on the basis of incapacitated to work.

Because Claimant has failed to establish that she was deferred from participation in the work participation program between October 2006 and November 2007 based on a long-term disability, Claimant has failed to establish that the months between October 2006 and November 2007 were state-funded months. As such, the months would be countable months for federal time limit purposes.

December 2007 to February 2008

Claimant next argues that the months between December 2007 and February 2008 should not be countable months for the federal time limit because during those months she was deferred from the work participation program for disability-related reasons. The state time limit counter identifies Claimant's participation status as deferred for reason of "local office discretion." Local office discretion is used for temporary critical events (such as homeless for up to 3 months), pregnancy complications, and participation in the Early On program. PEM 230A (October 1, 2007), p. 17. Because this deferral basis is not used under Department policy to identify situations where a client is disabled, Claimant has failed to establish that the months between December 2007 and February 2008 were state-funded months based on a long-term disability. As such, the months would be countable months for federal time limit purposes.

March 2008 to September 2008

Claimant also contends that the months between March 2008 and September 2008 should not be countable for the federal time limits because she was a voluntary work participation program participant those months. Under Department policy, client who meet the criteria for a temporary deferral or are meeting participation in non-JET activities may volunteer for the work participation program. PEM 230A (August 2008), p. 7; PEM 230A (October 2007), p. 5.

Under the facts in this case, Claimant may have met the criteria for a deferral. However, because she elected to participate in the PATH program, she was not designated as deferred for incapacitated to work reasons. The fact that policy provided that noncompliance penalties apply to voluntary participants when the client is noncompliant with activities agreed to on the FSSP further supports the conclusion that a voluntary participant is not granted “deferral” status for work participation program purposes. PEM 230A (August 2008), p. 7; PEM 230A (October 2007), p. 5.

Because Claimant has failed to establish that she was deferred from the work participation program for reasons of a long-term incapacity during the period she is identified as a voluntary participant, Claimant has failed to establish that between March 2008 and September 2008 her FIP benefits were state-funded. Accordingly, those months were properly included in the federal time limit count.

February 2009 to April 2009

All the months between October 2008 and October 2009 are excluded from the federal time limit counter except for February 2009 through April 2009. Claimant contends that the months from February 2009 to April 2009 should also be excluded from the federal time limit counter. On the state time limit counter, Claimant is deferred from participation in the work participation program for “incapacitated to work” between October 2008 and January 2009 and between May 2009 and October 2009 and those months are excluded from the federal count. For the months between February 2009 to April 2009, Claimant is identified as deferred from participation in the work participation program for “incapacitated for 90 days or less” and those months are included in the federal count. Claimant contends that it is unlikely that she had a short-term disability lasting 90 days nestled between long-term disabilities and argues that her deferral for the entire period between October 2008 and October 2009 should be incapacitated to work. Claimant’s argument has merit. Because the months between February 2009 and April 2009 were likely based on ongoing medical conditions that extended from October 2008 through October 2009, those months should have been identified as deferred for reasons of incapacitated to work. As such, they would be state-funded FIP months and excluded from the federal time limit count. Therefore, the Department improperly included the three months between February 2009 and April 2009 in Claimant’s federal FIP time limit count.

October 2010 to March 2011

Claimant’s final argument is that the months between October 2010 and March 2011 should be excluded from the federal time limit count because she was participating in Michigan Rehabilitative Services (MRS) during those months. Participation in MRS is permitted in lieu of other employment services. BEM 230A (October 2010 and January 2011), p. 3. Clients who participate in MRS must meet their MRS work plan and, if unable to do so because of a short- or long-term disability, must satisfy the conditions for a deferral under policy. BEM 230A, p. 10. The Department policy implies that an individual receiving MRS services is not designated as incapacitated to work; rather, the individual must satisfy the criteria for a disability to obtain a deferral. There is no other support for a finding that FIP grants to individuals participating in MRS in lieu of the

work participation program receive state-funded FIP. Accordingly, the months between October 2010 and March 2011 were properly included in Claimant's federal time limit count.

As discussed above, the only months improperly included in Claimant's FIP federal time limit count were the three months between February 2009 and April 2009. When those three months are excluded from the 81-month count on the federal time limit count, the Department has established that Claimant received 78 months of FIP benefits that are countable on the federal time limit count.

Because 78 months exceeds the 60-month limit, 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 acted in accordance with Department policy when it denied Claimant's FIP eligibility for exceeding the federal time limit on receipt of FIP benefits.

DECISION AND ORDER

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



Alice C. Elkin

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

Date Signed: **8/25/2014**

Date Mailed: **8/25/2014**

ACE / tlf

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:

[REDACTED]
[REDACTED]
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