

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-004679
Issue No.: 1010
Case No.: ██████████
Hearing Date: November 13, 2014
County: Wayne-District 57

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, an in-person hearing was held on November 13, 2014, from Detroit, Michigan. Claimant appeared and testified on her behalf. ██████████, Family Independence Specialist, and ██████████ ██████████, Family Independence Manager, appeared and testified on behalf of the Department of Human Services (Department) included.

ISSUE

Did the Department properly determine that Claimant has exceeded the State 48-month lifetime limit on receipt of Family Independence Program (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 an ongoing recipient of FIP benefits.
2. On May 16, 2014, the Department notified Claimant that it intended to close her FIP case for three months for noncompliance with FIP-related employment activities unless she established good cause for her noncompliance at a May 23, 2014 triage.
3. Claimant attended the triage, and the Department concluded that she had good cause for her noncompliance.

4. The Department was unable to reinstate Claimant's FIP case because its system identified Claimant as having received FIP benefits in excess of the state time limit.
5. On June 9, 2014, Claimant filed a request for hearing disputing the Department's failure to reinstate her FIP case.

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 Department testified that Claimant's FIP case was initially set to close because of noncompliance with FIP-related employment activities. After it concluded that Claimant had good cause for the noncompliance, it attempted to reactivate her FIP case and remove the disqualification. However, its system kept refusing to reactivate the case because it identified Claimant as being ineligible for FIP because she had exceeded the 48-month state time limit on receipt of FIP benefits. On September 19, 2014, the Department sent Claimant a Notice of Case Action advising her that her FIP case was closed because she had exceeded the 48-month state time limit on the receipt of FIP assistance. Although the Department contended that Claimant received FIP benefits through August 2014, Claimant testified that she last received FIP in May 2014 and the evidence presented by the Department supported Claimant's testimony.

BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for FIP cases. BEM 234 (July 2013), p. 4. The state counter begins October 1, 2007. MCL 400.57r.

In support of its case that Claimant received FIP benefits in excess of the 48-month state time limit; the Department presented a Michigan FIP time limit chart showing that Claimant received FIP benefits from April 2008 to July 2008 and from September 2010 to May 2014. These months total 48. Claimant does not deny receiving FIP on the months indicated on the chart. Rather, she contends that certain months on the state counter should not be counted towards her state time limit because she was deferred from participating in the work-participation program.

Generally, for each month an individual receives FIP, regardless of the funding source (federal or state), the individual receives a count of one month on the state FIP time limit count. BEM 234, p. 4. However, there is an exemption from the state time limit count for those months between October 1, 2007 and September 30, 2011 in which the client received FIP and was deferred from participation in the work participation program for any reason and for those months between October 1, 2011 ongoing for those months in which the client was 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, p. 4; MCL 400.57p.

Claimant contends that she was deferred from the work participation program from April 2008 to July 2008 and from April 2011 to July 2011 and, as such, those months should be exempt from the state time limit count. The Michigan state time limit chart shows that Claimant was a mandatory work participation participant for each of those months. Claimant disputed this classification, arguing that, for the months between April 2011 and July 2011, she was deferred from the work participation program due to her son's illness. At the hearing, the Department acknowledged that, while it generally granted deferrals to clients, the case notes from the work participation program showed that Claimant was granted a verbal deferral from the program for the months between April 2011 and July 2011 because of her child's illness. Because Claimant was deferred from participating in the work participation program between April 2011 and July 2011, those months are exempt from the state time limit count.

Claimant also credibly testified that during the time she received FIP between April 2008 and July 2008 she was deferred from the work participation program because she had a high-risk pregnancy that in fact resulted in a miscarriage. The fact that Claimant received FIP for only four months in 2008 and not again until September 2010 further supports her testimony that she had issues in connection with her pregnancy. The Department acknowledged that it did not have any notes from the work participation program for the period prior to 2010; therefore, it was unable to counter Claimant's testimony. Because Claimant established that she was deferred from the work participation program between April 2008 and July 2008, those months are also exempt from the state time limit count.

When the eight exempt months from April 2008 through July 2008 and from April 2011 through July 2011 are excluded from Claimant's state time limit counter, Claimant received only 40 months of FIP benefits. Therefore, 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 did not act in accordance with Department policy when it denied Claimant's FIP eligibility for exceeding the 48 month State time limit on receipt of FIP benefits.

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. Issue Claimant supplements for FIP benefits she was eligible to receive but did not from May 1, 2014 ongoing.



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

Date Signed: **11/18/2014**

Date Mailed: **11/18/2014**

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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]