

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006431
Issue No.: FIP
Case No.: [REDACTED]
Hearing Date: October 23, 2014
County: KENT-DISTRICT 1

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Upon Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37, and Title 45 of the Code of Federal Regulations (CFR), particularly 45 CFR 205.10. After due notice, a telephone hearing was held on October 23, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department included [REDACTED], Hearing Facilitator, [REDACTED], Case Manager, and [REDACTED], Family Independence Manger.

ISSUE

Did the Department properly determine that Claimant exceeded the 60-month federal lifetime limit on receipt of Family Independence Program (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. Claimant was receiving FIP benefits.
2. On June 25, 2014, the Department notified Claimant that the FIP case would close because Claimant had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
3. On June 30, 2014, Claimant filed a request for hearing, disputing the Department's action because she wants cash assistance through the State Disability Assistance (SDA) program.
4. The Department subsequently sent Claimant's case to the Medical Review Team to determine whether or not she meets the disability criteria for the SDA program.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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

The FIP benefit program is not an entitlement. BEM 234 (7-1-2013), 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. An exception exists for individuals who were, as of January 9, 2013, (1) approved/active for FIP benefits **and** (2) 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, or caring for a spouse or child with disabilities. BEM 234, p. 2; MCL 400.57a(4). The exception continues as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, pp. 1-2.

There is also policy addressing state time limits and exemptions for FIP. Further, 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 any exemption criteria. BEM 234 pp. 4-7.

During the telephone hearing proceedings, the Department presented the action at issue as a denial of a FIP application. (Exhibit A, page 1). However, a review of the other exhibits and Claimant's testimony indicates this was not accurate. Rather, the evidence shows Claimant had been receiving FIP benefits and the Department is proposing a closure of the FIP case. (Exhibit A, pp. 3 and 5-7).

It was uncontested that Claimant has received more than 60 months of FIP benefits. However, it is not clear how long Claimant had been receiving FIP benefits.

If this was an active FIP case from January 9, 2013 or earlier, the exceptions to the federal time limit would still be considered. For example, Claimant's testimony indicated the Department changed her prior cash assistance under the State Disability Assistance

(SDA) program to cash assistance under the FIP program because there was a child under age 18 in the home. It was not established when this alleged change occurred. If Claimant had an approval for SDA benefits based on a finding that she was disabled that was still current when the June 2014 determination was made, it would also have established that Claimant was incapacitated for over 90 days, and thus would have allowed her to meet an exception to the 60 month time limit for FIP. If the FIP case had been approved/active since at least January 9, 2013, the Department needed to establish that Claimant no longer met any exceptions to the 60 month time limit.

Alternatively, it is also possible that there was a prior closure of cash assistance and a more recent application for SDA/cash assistance. The Department explained that FIP must still be considered because of the child in the home under age 18. However, if this was a recent application for cash assistance, it is not clear why FIP benefits would have started if Claimant had already exceeded the time limit. In any event, for a recent application, once the Department determined Claimant was not eligible because she had exceeded the FIP time limits, the Department should have timely processed the application for SDA. The Department acknowledged that after the hearing request was filed, Claimant's case was sent to the Medical Review Team to determine disability for the SDA program. Claimant confirmed that she received the August 25, 2014, denial notice regarding the MRT's determination for the SDA program. Accordingly, there is no need for this ALJ to order the Department to process Claimant's request for SDA. If she has not already done so, Claimant can appeal the SDA determination within 90 days of the August 25, 2014 notice date.

Ultimately, the Department has not presented sufficient evidence for this ALJ to review the proposed closure of the FIP case because the submitted evidence does not establish whether (1) this was a recent application for cash assistance, or, (2) this was an ongoing FIP case that was active on or before January 9, 2013, and whether or not Claimant continued to meet an exception to the 60 month time 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 failed to satisfy its burden of showing that it 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 **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. Re-instate Claimant's FIP case retroactive to the August 1, 2014, effective date and re-determine Claimant's eligibility for FIP in accordance with Department policy.
2. Issue Claimant any supplement she may thereafter be due.

Colleen Lack

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

Date Signed: **10/30/2014**

Date Mailed: **10/30/2014**

CL/hj

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:

