

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

**IN THE MATTER OF:**



Reg. No.: 14-009856  
Issue No.: 1001  
Case No.: [REDACTED]  
Hearing Date: October 23, 2014  
County: WAYNE-15 (GREYDALE)

**ADMINISTRATIVE LAW JUDGE: Lynn 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 October 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

**ISSUE**

Did the Department properly deny the Claimant's application for FIP Cash Assistance ?

**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 re-applied for FIP cash assistance on May 28, 2014, requesting FIP cash assistance as an ineligible grantee. The Claimant sought FIP benefits for her niece and nephew as their guardian.
2. Claimant's FIP case was sanctioned for noncompliance with employment-related activities and penalized for closure for the six-month period between June 1, 2013, and November 30, 2014.
3. On June 23, 2014, the Department denied the application due to the Claimant's noncompliance with the PATH program, second sanction, and exceeding the lifetime Michigan FIP 48 month limit. Exhibit 2

4. At the hearing, the Department conceded that the Claimant's application was improperly denied as she had applied as an ineligible grantee, not including herself in the application, and the 48-month time limit had not expired in June 2014 when it took its action.
5. The Claimant requested a hearing on August 4, 2014 protesting the Department's denial of her FIP application. The Claimant also sought a hearing regarding medical insurance, which was resolved prior to the hearing and was no longer an issue.

### **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 issue presented at the hearing was whether Claimant could be an ineligible grantee of FIP benefits on behalf of her niece and nephew when she was subject to a FIP employment-related sanction. Claimant has a guardianship and legal custody of her niece and nephew. Claimant was sanctioned for noncompliance with FIP-related employment activities and her FIP case was closed from June 1, 2014 to November 30, 2014. On May 28, 2014, Claimant filed a FIP application seeking cash assistance for only her niece and nephew, with herself as the ineligible grantee. On June 23, 2014, the Department sent Claimant a Notice of Case Action informing her that her application was denied because of her FIP sanction, and that she had exceeded the Michigan FIP 48 month time limit and was no longer eligible on that basis. Exhibit 2. On August 4, 2014, Claimant filed a request for hearing concerning the denial of her FIP application. At the hearing, Claimant expressly identified the denial of the application as the reason for requesting a hearing, not the closure of her FIP case.

Claimant, as the legal guardian for her niece and nephew, is not a mandatory FIP EDG member. BEM 210 (July 1, 2013), pp 4, 5. Non-parent caregivers who are not eligible for cash assistance or choose not to request cash assistance are classified as ineligible grantees. BEM 210, p 7; BEM 515 (July 1, 2013), p 2. Ineligible caretakers are not recipients of FIP, although the caretaker receives FIP benefits for the children as the children's protective payee. BEM 230A (July 1, 2013), p. 14; BAM 420 (July 1, 2013), pp 1, 6. While a group is ineligible for FIP benefits if a *WEI* (work-eligible individual) in the group is subject to an employment-related noncompliance while a FIP application is

pending, an ineligible caretaker is a *non-WEI*. BEM 233A (July 1, 2013), p 5; BEM 228 (July 1, 2013), p 4. Furthermore, a FIP three-month, six-month or lifetime penalty is not applied to ineligible caretakers. BEM 233A, p 7.

Because Claimant applied on May 28, 2014 for FIP benefits for her niece and nephew with herself as an ineligible caretaker, she is not a mandatory member of the children's FIP group and, if the children are eligible to receive FIP benefits, she would receive FIP benefits only on their behalf as their protective payee. Because Claimant applied for FIP benefits as the children's ineligible caretaker, she is a non-WEI, and it follows that any employment-related disqualification Claimant was subject to should not have been considered in processing Claimant's FIP application for benefits for the children. Thus, the Department did not act in accordance with Department policy when it denied Claimant's May 28, 2014, FIP application.

The FIP benefit program is not an entitlement. BEM 234 (July 1, 2013), p. 1. Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. BEM 234, p. 4. Effective October 1, 2011, BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for State-funded FIP cases for which no months were exempt. BEM 234, p. 4.

The 48-month lifetime limit for State-funded FIP cases allows exemption months in which an individual does not receive a count towards the individual's 48-month lifetime limit. BEM 234, p. 4. Exemption months are months the individual is 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. FIP benefits received prior to October 1, 2006, are **not** State-funded. BEM 234, pp. 3.

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 an exemption criteria. BEM 234, p. 7.

The Department also based its denial of the Claimant's May 28, 2014 FIP application due to Claimant exceeding the 48 State FIP time limit. Exhibit 2. Based upon the Michigan FIP Time Limit counter relied upon by the Department and provided as evidence, the Claimant's FIP benefits would not have been exceeded on May 28, 2014, the FIP application date. Exhibits 3 and 6. Although at some point the limit will be reached, at the time of the application May 28, 2014, the 48-month time limit had not been exceeded.

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 did not act in accordance with Department policy when it denied the Claimant's May 28, 2014 FIP application.

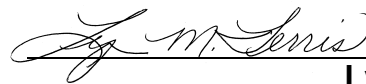
**DECISION AND ORDER**

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 re-register the Claimant's May 28, 2014 application.
2. The Department shall re-process the application to determine the Claimant's eligibility as an ineligible grantee in accordance with Department policy and consistent with this Hearing Decision.
3. Issue a supplement to the Claimant as a protective payee for any FIP benefits the children are eligible to receive from May 28, 2014 ongoing;
4. Notify the Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: **10/27/2014**  
Date Mailed: **10/27/2014**

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:

