

**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.: 14-011597
Issue No.: 1010; 4004
Case No.: ██████████
Hearing Date: January 29, 2015
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Alice 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 January 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (Department) included ██████████, Medical Contact Specialist, and ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny Claimant's May 15, 2014 application for cash assistance under the Family Independence Program (FIP) or State Disability Assistance (SDA) program?

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 May 15, 2014, Claimant applied for cash assistance, identifying herself as disabled on her application.
2. Claimant is the parent of a minor child who lives with her.
3. On May 29, 2014, the Department sent Claimant a Notice of Case Action denying her application on the basis that she had received FIP benefits in excess of the 60-month federal time limit on the receipt of such benefits.
4. On July 18, 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.

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.

In this case, Claimant applied for cash assistance on May 15, 2014 and identified herself as disabled. On May 29, 2014, the Department sent her a Notice of Case Action notifying her that her application was denied under the FIP program because she had exceeded the 60-month federal time limit for receipt of FIP benefits. There was no evidence presented that the application was processed for SDA eligibility, and the Department acknowledged that once its system recognized that there was a minor child in the home, the application would be processed only for FIP eligibility.

At the hearing, Claimant contended that she recognized that she exceeded the FIP time limit but was seeking cash assistance under the SDA program. SDA benefits are available to an individual who is ineligible for FIP and is disabled or caring for a disabled person. BEM 214 (April 2014), p. 1. Therefore, to the extent that Claimant was ineligible for FIP; the Department erred in failing to process her application of SDA eligibility. However, as discussed below, Claimant is eligible for an exception to the federal time limit, and, consequently, the Department did not act in accordance with Department policy when it denied the cash assistance application for FIP benefits on the basis that she had exceeded the federal time limit.

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. BEM 234, pp. 1-2; BEM 210 (July 2013), p. 1. However, 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, establishing incapacity, incapacitated more than 90 days, age 65 or older, 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 or the individual, at application, is approved as **any** of the above employment deferral reasons. BEM 234, p. 2.

In this case, Claimant did not dispute the Department's finding that she had received 93 months of federally-funded FIP benefits. However, she contended that she was disabled and had an ongoing disability. She provided a Michigan FIP time chart that the Department had given her showing that she had been deferred from the work participation program for the reason of "incapacitated to work" from October 2011 to May 2013. The chart showed that Claimant received FIP in January 2013, during which time she was identified as "incapacitated to work." (Exhibit A.) Because Claimant was a FIP recipient as of January 9, 2013 and was exempt from participation in the PATH program due to incapacity, she was eligible for an exception to the federal time limit.

In the application she submitted on May 15, 2014, Claimant identified herself as disabled. Because Claimant was entitled to an exception to the federal FIP time limit based on her status in January 2013 and she established in her application that she was eligible for an employment deferral reason based on establishing incapacity and, possibly, incapacity for more than 90 days, her exception to the federal time limit continued. Therefore, the Department did not act in accordance with Department policy when it concluded that Claimant was ineligible for FIP benefits based on the time limits.

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. Reregister and reprocess Claimant's May 15, 2014 FIP application and her eligibility for a PATH deferral;
2. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from May 15, 2014 ongoing while her PATH deferral is processed; and
3. Notify Claimant in writing of its FIP decision.



Alice Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/10/2015**

Date Mailed: **2/10/2015**

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]