

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 14-011639
Issue No.: 1010
Case No.: ██████████
Hearing Date: November 24, 2014
County: WAYNE (31)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 November 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits because she exceeded the allowable time limits?

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. Claimant had been placed in deferral status because she was caring for a disabled child.
3. The child Claimant was caring for reached 18 years of age and Claimant was removed from deferral status.
4. On August 28, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective October 1, 2014 because she had exceeded the allowable time limits.
5. On September 5, 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 FIP benefit program is not an entitlement. BEM 234 (July 2013), pp. 1-2. Department policy allows a person to continue receiving FIP benefits after they have exceeded the time limit if they are in deferral status. The relevant Department policy states as follows:

Michigan will provide an exception to the federal 60 month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

An approved/active ongoing FIP EDG **and**

- Who was 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.
- Care of a spouse with disabilities.
- Care of a child with disabilities.

The exception continues as long as:

- The individual's ongoing FIP EDG reaches 60 TANF federal months **and** the individual remains one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.
- The individual, at application, is approved as **any** of the above employment deferral reasons. In these instances, the FIP EDG will be state funded.

The exception ends once one of the above individuals **no** longer qualifies for one of the above employment deferral reasons or they **no** longer meet other standard eligibility criteria for FIP. The FIP EDG will close or the application will be denied.

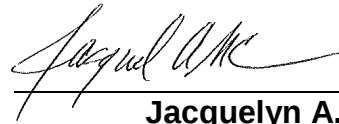
On August 28, 2014, the Department mailed Claimant a Notice of Case Action stating her case would close because she had exceeded the countable months of assistance. At the hearing, the Department indicated that Claimant had previously been placed in deferral status because she was caring for a disabled child. A review of the Michigan Time Limit Counter reveals that the deferral ended in approximately November 2013. Claimant was under the mistaken belief that the receipt of FIP benefits did not count against time limits while she was working. However, the Department testified that any month that a client receives FIP benefits and is not deferred counts as a month towards the time limits. Claimant does not deny that the deferral ended or that she received benefits for more than 60 months. When looking at both counters, it appears that there were only a few months where Michigan has Claimant in deferral status because she was caring for a disabled child when at the same time the months were counted on the Federal Time Limit Counter. Even when these months are removed (February 2010 through September 2010 and July 2011 through September 2011), Claimant has still exceeded the 60 month federal limit.

The Michigan Time Limit Counter also showed that Claimant was deferred as of January 9, 2013. Claimant testified that she is disabled. Claimant indicated that she applied for social security benefits but was denied and currently has an appeal pending. According to the Michigan Time Limit Counter, Claimant has only used 26 months of the 48 months she is entitled. Because Claimant was deferred as of January 9, 2013, she may be eligible to reapply for state funded FIP as Michigan provides an exception to the Federal time limits if a client can establish incapacity for more than 90 days. However, at the time the Department issued the August 28, 2014 Notice of Case Action, Claimant had not reapplied for state funded FIP benefits claiming an exception. Alternatively, Claimant may be eligible for cash assistance under the State Disability Assistance Program. Claimant has the option to apply for this program. Because Claimant was no longer in deferral status and had not applied for State Funded FIP at the time the Department took the negative action, it is found that the Department properly closed Claimant's FIP benefits effective October 1, 2014 because she exceeded the allowable time limits.

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 acted properly when it closed Claimant's FIP case after she was no longer in deferral status and she had exceeded the Federal time limit.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/3/2014**

Date Mailed: **12/3/2014**

JAM / cl

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]
[REDACTED]