

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

IN THE MATTER OF:

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

Reg. No.: 14-013285
Issue No.: 1001
Case No.: ██████████
Hearing Date: November 03, 2014
County: Wayne Pathways To Potential

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, a telephone hearing was held on November 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Pathway to Potential Success Coach.

ISSUE

Did the Department properly close Claimant's cash assistance case under the Family Independence Program (FIP)?

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. In February 2014, Claimant's FIP case closed without any notice.
3. On February 20, 2014, Claimant reapplied for cash assistance.
4. On May 11, 2014, the Medical Review Team (MRT) denied Claimant's deferral from the Partnership.Accountability.Training.Hope. (PATH) program, finding that Claimant was capable of past relevant work.
5. On May 31, 2014, the Department sent Claimant a Notice of Case Action notifying her that her application was denied for SDA benefits because she was not a dependent child, a caretaker/relative of a child, not pregnant, not aged or disabled,

not a refugee, and did not have a qualifying relationship to other household members. The Notice also indicated that a disability determination was made by the Department.

6. On July 8, 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 evidence at the hearing established that Claimant had been receiving FIP benefits as a parent of minor children. Claimant testified that she received her last FIP allotment in February 2014 but did not receive any notice of case action advising her of the closure of her FIP case. Rather, she was advised of the closure of her FIP case by her worker in February 2014 when she applied for State Emergency Relief (SER) assistance. When she was advised of her case closure, she reapplied for cash assistance on February 20, 2014. At the hearing, the Department testified that Claimant's FIP case was closed because she exceeded the 60 month federal time limit on the receipt of benefits, and, consequently, it processed Claimant's February 20, 2014 application for cash assistance for eligibility for State Disability Assistance (SDA) benefits based on a disability. The Department testified that, when MRT found that Claimant was not disabled, it sent her the May 31, 2014 Notice of Case Action denying her application for SDA. A review of the MRT decision, DHS-49A, clearly shows that MRT's decision was made in connection with a PATH deferral, not an SDA application and includes an MRT Assessment for PATH, DHS 49A-E, that concludes that Claimant's work activities are limited to unskilled work. While there was some discussion regarding whether MRT's finding of no disability was proper with respect to the denial of the SDA application, a review of the evidence shows that the Department did not act in accordance with Department policy with respect to the closure of Claimant's FIP case, which preceded the SDA application. Accordingly, this Hearing Decision addresses the issue of the Department's actions concerning Claimant's cash assistance under the FIP program.

As indicated, the Department argued that Claimant was ineligible for FIP because she had received FIP benefits in excess of the federal time limit. 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. BEM 234 (July 2013), pp. 1-2. 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 PATH program for reasons of 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. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234, p. 1.

In support of its position that Claimant had exceeded the federal time limit, the Department provided a federal TANF time limit chart showing that Claimant had received 60 months of FIP benefits as of October 2011 that were counted against her federal time limit. However, the Department also provided a Michigan FIP time limit chart that showed that Claimant had received state-funded FIP for each month between April 2012 and February 2014 with work participation status of “deferred” for reason of “establishing incapacity.” Although there is also a disqualification reason of non-cooperation with employment and training for January 2013 to March 2013, the Department acknowledged that, because the chart continued to show that Claimant was deferred for reason of establishing incapacity, the disqualification reason was listed in error. Therefore, the chart established that Claimant received FIP benefits in January 2013 and she was exempt from participation in the PATH program that month and at least through February 2014 for reason of “establishing incapacity.” As such, Claimant was entitled to an exception to the federal time limit. Because there is no evidence that Claimant lost the deferral reason at any time prior to the MRT decision in May 2014, the Department did not act in accordance with Department policy when it closed Claimant’s FIP case in February 2014.

Furthermore, Claimant testified, and the Department acknowledged, that Claimant was never notified of the reason her FIP case closed. Claimant was entitled to timely notice of her FIP case closure, specifying the action being taken by the Department, the reason for the action, the specific manual item which cites the legal base for an action (or the regulation or law itself). BAM 220 (January 2014), pp. 1-4. Additionally, when timely notice is required, a client is entitled to a pended negative action, meaning that the Department’s action cannot be effective until 12 calendar days after notice is sent. BAM 220, pp. 11-12. In this case, because the Department never properly notified Claimant of the closure of her FIP case and reason for the closure and did not provide timely notice, it did not act in accordance with Department policy.

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 closed Claimant’s FIP case.

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. Reinstate Claimant's FIP case from the date of closure in February 2014; and
2. Issue supplements to Claimant for FIP benefits she would have received from the date of the FIP closure ongoing in the amount she would have received if the case had not been improperly closed.



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

Date Signed: **11/7/2014**

Date Mailed: **11/7/2014**

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 48909-07322

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