

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2014-10264
Issue No.: 1010; 3000
Case No.: [REDACTED]
Hearing Date: December 4, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department or DHS included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly determine that Claimant exceeded the 60-month federal lifetime limit on 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. On October 21, 2013, Claimant applied for FIP benefits. See Exhibit 1.
2. On October 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective November 16, 2013, ongoing because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
3. On October 25, 2013, Claimant filed a hearing request, protesting the FIP denial and Food Assistance Program (FAP) benefits. See Exhibit 1.

CONCLUSIONS OF LAW

☒ The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

FAP benefits

On October 30, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for a group size of two in the amount of \$347 effective November 1, 2013, ongoing. See Exhibit 1. On October 25, 2013, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1. Claimant testified that her group size should be three. However, the notice of case action regarding Claimant's FAP dispute is subsequent to her hearing request. Therefore, this hearing decision has no jurisdiction to address Claimant's FAP hearing request. Claimant was notified to submit a subsequent hearing request to dispute her FAP benefits. Claimant's FAP hearing request is DISMISSED for lack of jurisdiction. See BAM 600 (July 2013), pp. 3-5.

FIP application

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 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, 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.

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, p. 7.

In this case, on October 21, 2013, Claimant applied for FIP benefits. See Exhibit 1. On October 21, 2013, the Department notified Claimant that her FIP application was denied effective November 16, 2013, ongoing because she exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of October 1, 2010. See Exhibit 1.

At the hearing, the Department presented as evidence Claimant's Federal TANF Time Limit document. Exhibit 1. This document showed that Claimant had received a cumulative total of 60 months or more of FIP benefits as of October 2010. Exhibit 1. Thus, at the time of her application, Claimant exceeded the 60-month federal lifetime limit and was not eligible for FIP benefits.

Claimant testified that she last received cash benefits in 2003 or 2004. Claimant testified that she was not in the Work First program and she had evidence of paystubs from several years showing that she was employed. It should be noted that the paystubs were admitted as Exhibit A; however, these documents were not received. Nevertheless, it is acknowledged that Claimant credibly testified that she had paystubs from several years, which showed employment.

It should be noted that the Department also presented an Eligibility Summary, which showed that Claimant received FIP benefits as recently as February 2013. See Exhibit 1.

Based on the foregoing evidence and testimony, the Department properly denied Claimant's FIP application effective November 16, 2013, ongoing, in accordance with Department policy. The Department presented evidence that Claimant is not eligible for FIP benefits because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of October 2010. See Exhibit 1. Claimant credibly testified that she had employment for several years in the past. However, Claimant did not credibly testify that she last received cash benefits since 2003 or 2004. Instead, the Department rebutted Claimant's testimony that she did in fact receive cash benefits subsequent to 2004. The Federal TANF Time Limit clearly indicated that Claimant had received a cumulative total of 60 months or more of FIP benefits as of October 2010. Exhibit 1. Moreover, the Eligibility Summary showed that Claimant received FIP benefits as recently as February 2013. See Exhibit 1.

In summary, the Department acted in accordance with Department policy when it denied Claimant's FIP application effective November 16, 2013, ongoing because she exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of October 1, 2010. See Exhibit 1 and BEM 234, pp. 1 and 7.

It should also be noted that Claimant provided several Notices of Case Action, which indicated she was either denied or approved for cash benefits. See Exhibit A. For

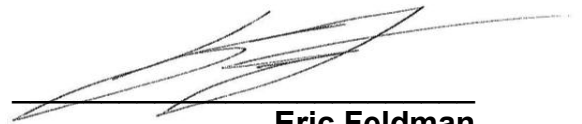
example, on April 15, 2013, the Notice of Case Action notified Claimant that she was denied for FIP benefits due to exceeding the 60-month federal lifetime limit on receipt of FIP assistance. See Exhibit A. Also, on September 25 2012, the Department sent Claimant a Notice of Case Action notifying her she was approved for FIP benefits effective October 1, 2012, ongoing, in the amount of \$492. See Exhibit A. As stated above in the FAP analysis, this hearing decision has no jurisdiction to these previous Notices of Case Action. Claimant's hearing request was not timely filed within ninety days of the Notices of Case Action. See BAM 600, pp. 3-5. This hearing decision only addressed Claimant's Notice of Case Action dated October 21, 2013. See Exhibit 1.

DECISION AND ORDER

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 acted in accordance with Department policy when it denied Claimant's FIP eligibility effective November 16, 2013, ongoing, for exceeding the federal time limit on receipt of FIP benefits.

Accordingly, the Department's FIP eligibility decision is AFFIRMED.

IT IS ALSO ORDERED that Claimant's FAP hearing request is DISMISSED for lack of jurisdiction.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 10, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

LMF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]