

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

IN THE MATTER OF:

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

Reg. No.: 2014-11616
Issue No(s): 1001
Case No.: ██████████
Hearing Date: January 23, 2014
County: Wayne Pathway to Potential

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on January 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Specialist Success Coach.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP) benefits?

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. On May 16, 2013, the Department sent Claimant a Notice of Case Action informing her that effective June 1, 2013, her FIP case would be closing on the basis that for a second time, she or a group member failed to participate in employment and/or self-sufficiency related activities without good cause. This Notice also informs her that the FIP case would remain closed from June 1, 2013, through November 30, 2013. (Exhibit 2).
3. On October 15, 2013, Claimant submitted an application for FIP benefits.

4. On October 23, 2013, the Department sent Claimant a Notice of Case Action informing her that her FIP application had been denied on the basis that: (i) a group member has an intentional program violation disqualification; (ii) that Claimant had exceeded the 60 month federal lifetime limit on receipt of FIP assistance; and (iii) that Claimant's FIP case was still under the six month sanction until November 30, 2013, due to a previous noncompliance without good cause. (Exhibit 3).
5. On October 31, 2013, Claimant requested a hearing disputing the FIP case closure effective June 1, 2013, and the denial of her October 15, 2013, FIP application.

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, 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.

Closure of FIP case effective June 1, 2013

In the present case, on May 16, 2013, the Department sent Claimant a Notice of Case Action informing her that her FIP case would be closing effective June 1, 2013 due to her noncompliance with work related activities for a second time. (Exhibit 2). There was a six month sanction placed on Claimant's case and she was informed that her FIP case would remain closed from June 1, 2013, through November 30, 2013. (Exhibit 2).

Claimant confirmed that she did not request a hearing to dispute the closure of her FIP case until October 31, 2013. After further review, it appears that there was no negative action taken by the Department with respect to Claimant's FIP case during the 90 days preceding the filing of her hearing request; therefore, Claimant's hearing request with respect to the FIP case closure was not timely filed within ninety days of the May 16, 2013 negative action notice and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p 4.

Denial of October 15, 2013, FIP application

On October 15, 2013, Claimant submitted an application for FIP benefits. On October 23, 2013, the Department sent Claimant a Notice of Case Action informing her that her FIP application had been denied on the basis that: (i) a group member has an

intentional program violation disqualification; (ii) that Claimant had exceeded the 60 month federal lifetime limit on receipt of FIP assistance; and (iii) that Claimant's FIP case was still under the six month sanction until November 30, 2013, due to a previous noncompliance without good cause. (Exhibit 3).

At the hearing, the Department did not present any evidence, testimony or otherwise, to establish that Claimant or a group member was subject to an intentional program violation (IPV) disqualification and not eligible for FIP benefits. Therefore, the denial of Claimant's FIP application on this basis was not proper.

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. The exception will end once the individual no longer qualifies for any of the employment deferral reasons or they no longer meet other standard eligibility for FIP. BEM 234, p. 2.

At the hearing, the Department testified that as of September 1, 2011, Claimant had received 109 countable months of FIP assistance, in excess of the 60 month federal lifetime limit. (Exhibit 3). Claimant disputed this testimony and stated that she did not receive FIP benefits for 109 months. The Department did not present any supporting documentation to establish that Claimant had reached the federal time limit and did not provide a Federal TANF Time Limit Summary or a state time limit counter for review. Therefore, the denial of Claimant's FIP application on the basis of her exceeding the federal time limit was not proper.

The Notice of Case Action sent to Claimant on October 23, 2013, informs Claimant that her October 15, 2013, FIP application was denied because she is still subject to the six month penalty that was imposed effective June 1, 2013. Claimant was informed that her FIP case will remain closed until November 30, 2013, and that she may reapply during the last month of the penalty period. Claimant was also informed of this in the May 16, 2013, Notice of Case Action. The last month of the penalty period would be November 2013. Because Claimant submitted her FIP application on October 15, 2013, the Department's denial of her FIP case was proper.

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 although the Department did not establish that the denial reasons of exceeding the federal time limit and an IPV disqualification were proper, the Department acted in accordance with

Department policy when it denied Claimant's application because she applied during the six month penalty period.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to the closure of her FIP case effective June 1, 2013, is DISMISSED and the Department's decision with respect to the denial of Claimant's October 15, 2013, FIP application is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 12, 2014

Date Mailed: February 12, 2014

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

2014-11616/ZB

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

ZB/tm

cc:

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