

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

IN THE MATTER OF:

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

Reg. No.: 2014 11848
Issue No(s): 1010, 3001
Case No.: ██████████
Hearing Date: January 23, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department included ██████████ ES.

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?

Did the Department properly determine that the Claimant was not entitled to a Food Assistance increase in November 2013 due to the ending of her unemployment income?

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 received applied for FIP benefits.
2. On November 8, 2013, the Department notified Claimant that
 the FIP case would close
 the FIP application was denied
because Claimant had exceeded the 60-month federal lifetime limit on receipt of FIP assistance. Exhibit 3

3. The Claimant was receiving unemployment benefits which ended on October 26, 2013. The Claimant notified the Department that her unemployment ended on October 22, 2013.
4. The Department increased the Claimant's Food Assistance due to income decrease from unemployment effective December 1, 2013. Exhibit 3
5. On October 24, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a request for hearing, disputing the Department's action.

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 FIP benefit program is not an entitlement. BEM 234 (7/1/13), 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.

In this case, the Department denied the Claimant's application for FIP cash assistance due to the fact that the Claimant had previously received FIP for a total of 84 months based upon the Federal TANF Time Limit counter. Exhibit 4. A review of the counter indicates that the Claimant did receive credit when she was deferred due to her incapacity to work. Based upon this evidence, it is determined that the Department properly denied the Claimant's application for FIP cash assistance.

The Claimant also sought a FAP increase for November 2013, one month earlier than when the Claimant was granted a FAP increase due to the ending of the Claimant's unemployment unearned income. The Claimant did not challenge the amount of the FAP benefit allotment but thought it should be paid for November 2013 also. The Claimant advised the Department that the unemployment ended on October 22, 2013.

BEM 505 provides:

FAP

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. BEM 505 (7/1/13) pp.10

The Claimant's testimony of her reporting of her unemployment unearned income ending was not rebutted by the Department. Exhibit 5. Ten days after the change was reported by Claimant on October 22, 2013 was October 31, 2013; therefore, the Department was required to increase the Claimant's FAP benefits effective November 2013 as the increase should have been effective as of the first allotment issued 10 days after the reporting or November 2013. Thus it is determined that the Department must issue a FAP supplement to the Claimant for November 2013 to include the decrease in unearned income.

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 for exceeding the federal time limit on receipt of FIP benefits.

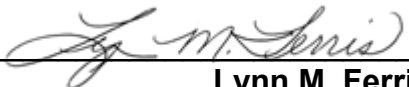
did not act in accordance with Department policy when it failed to include the decrease in Claimant's unearned income due to unemployment benefits ending when calculating November 2013 benefits.

DECISION AND ORDER

Accordingly, the Department's FIP eligibility decision is affirmed in part and reversed in part.

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. The Department shall issue a supplement for FAP benefits to the Claimant for November 2013 to include the decrease in income from unemployment benefits.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 10, 2014

Date Mailed: February 10, 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

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:

