

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

IN THE MATTER OF:

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Reg. No.: 2014-1351
Issue No.: 1010
Case No.: ██████████
Hearing Date: December 9, 2013
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department included ██████████.

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP) benefits because she exceeded the State 48-month lifetime limit on receipt of such 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. On September 20, 2013, Claimant applied for FIP benefits.
2. On September 20, 2013, the Department notified Claimant the FIP application was denied because Claimant had exceeded the 48-month State lifetime limit on receipt of FIP assistance.
3. On September 26, 2013, Claimant 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 (July 2013), p. 1. Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. BEM 234, p. 1.

Effective October 1, 2011, the total cumulative months that an individual may receive FIP benefits, regardless of whether the funding source is State or federal, is subject under State law to a lifetime limit of 48 months excluding any exempt months. BEM 234, pp. 1, 4. Exempt months are months the individual is deferred from the Partnership.Accountability.Training.Hope. (PATH) program for (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability or long-term incapacity lasting longer than 90 days (including establishing incapacity); or (iv) being a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, pp. 4. Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies, even if the client meets an exemption criteria. BEM 234, p. 6.

In this case, the Department testified that Claimant's September 20, 2013, FIP application was denied because Claimant had received 48 months of FIP benefits as of September 1, 2012. Claimant did not dispute receiving FIP benefits for 48 months. She testified that she had never been classified as disabled and that she had always been employed. Thus, Claimant did not receive FIP benefits while exempt from the PATH program due to a disability. However, Claimant testified that when she last received FIP in 2012, she had been addressing a domestic violence issue. Under these facts, it is unclear whether Claimant was exempt from the PATH program requirements due to domestic violence during any of the months she was receiving FIP benefits. The Department failed to present a State time limit chart showing Claimant's participation status and deferral reasons, if any, to establish that the 48-month count did not include any exempt month.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FIP application on the basis that she exceeded the State time limit on receipt of FIP benefits.

DECISION AND ORDER

Accordingly, the Department's FIP eligibility 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. Reregister Claimant's September 20, 2013, FIP application;
2. Reprocess the application;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from September 20, 2013, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: December 11, 2013

Date Mailed: December 11, 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.

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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

ACE/pf

cc:

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