

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

IN THE MATTER OF:



Reg. No.: 2014 19068
Issue No(s): 1010
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (19)

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 March 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department included [REDACTED], PATH Worker.

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. Claimant received applied for FIP benefits.
2. On January 1, 2014, 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.
3. On December 9, 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 (10/1/11), 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 presented a federal counter as evidence that demonstrated that the Claimant met the 60 month Federal Time limit as of December 2013. Exhibit 3. The Claimant credibly testified that she was deferred for several reasons during the periods in question which contributed to and were included in the 60 month limit. The Claimant had triplets in July 2008, and should have been deferred after the birth of her triplets from work-related participation; however, no deferral was noted. The Claimant also testified that she was deferred due to her son being autistic and she provided a doctor's note to the Department after his birth in [REDACTED] that he required in-home care. The Department, as it did not have the file for the period in question, approximately 3 or 4 years after birth, could not dispute this testimony. The Claimant's son now attends school.

The Claimant also credibly testified that she had a miscarriage in [REDACTED] and the Department conceded that she should have been deferred after the miscarriage. The Claimant also had surgery in [REDACTED] and there was a doctor's letter provided that she should have been off for 6 weeks, yet no deferral was granted or denied based upon the Department's records. As some of the files had been closed by another district, the information required to determine why deferrals were not granted or other disposition could not be determined and was unavailable or in closed files. Based upon the evidence presented by the Department, it is determined that the Department did not meet its burden to establish that the Claimant had met the 60 month federal time limit.

The Department conceded that after the birth of her triplets she should have been deferred in [REDACTED]. .

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
- did not act in accordance with Department policy
- failed to satisfy its burden of showing that it acted in accordance with Department policy

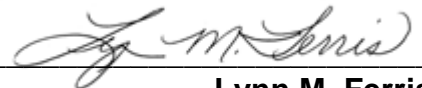
when it denied Claimant's FIP eligibility for exceeding the federal time limit on receipt of FIP benefits.

DECISION AND ORDER

Accordingly, the Department's FIP eligibility decision is AFFIRMED 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. The Department shall reinstate the Claimant's FIP case retroactive to the date of closure.
2. The Department shall issue a supplement to the Claimant for FIP benefits she was otherwise entitled to receive in accordance with Department policy.



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

Date Signed: March 31, 2014

Date Mailed: March 31, 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:

