

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-561
Issue No(s): 1010
Case No.: [REDACTED]
Hearing Date: December 3, 2013
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Upon Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MC L 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 3, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department included [REDACTED] Case Manager, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly determine that Claimant reached the 60-month federal lifetime limit on 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. The Claimant received FIP benefits.
2. On February 10, 2013, the Department notified the Claimant that the FIP case would close because the Claimant had met the 60-month federal lifetime limit of receipt of FIP assistance as of November 1, 2012.
3. The Claimant first filed a request for hearing disputing the Department's action in February 2013. On September 19, 2013, Claimant re-filed the 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

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Agency) administers FIP pursuant to MC L 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 Department noted that the Claimant's September 19, 2013, hearing request was not timely filed to contest the February 10, 2013, Notice of Case Action. The deadline for requesting a hearing is 90 calendar days from the date of the written notice of case action. BAM 600 (2-1-2013) page 4. However, the Claimant testified that she first filed the hearing request in February 2013, when she was eight months pregnant and did not have a job or any income. The Claimant stated she kept a copy of the hearing request. The Claimant indicated that in May 2013, she crossed off the February 2013 signature date and re-dated the appeal to re-file it. It is unclear why this version of the hearing request was not received until September 19, 2013. (Exhibit A, pages 2-3) However, if the Claimant's hearing request was originally filed in February 2013, it would have been timely to contest the February 10, 2013, Notice of Case Action. Accordingly, the February 10, 2013, determination to close the Claimant's FIP case effective March 1, 2013, will be reviewed.

The FIP benefit program is not an entitlement. Temporary Assistance to Needy Families (TANF) is the federal grant that funds the overwhelming majority of FIP assistance issued by the Department. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) established a five-year (60-month) lifetime limit on assistance for adult-headed families. The begin date for the federal time limit counter is October 1, 1996. In line with the goals of the Family Independence Program, any group that includes an individual who has received 60 months or more of FIP is not eligible for the FIP program. Each month an individual receives federally funded FIP, the individual receives a count of one month. A family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. BEM 234 (1-1-2013), page 1.

Any month that an individual's FIP assistance is state funded is **not** a countable month toward the federal time limit count. To meet the goals of the Family Independence Program, in a limited number of cases, the department has determined to state fund cases with one or more of the following characteristics: (1) two parent households. **Exception:** If one of the parents receives SSI, the group is considered a single parent household and is federally funded; (2) a group that has a parent deferred from Partnership. Accountability. Training. Hope. (PATH) due to a verified disability or long-term incapacity lasting longer than 90 days; see BEM 230A; (3) court-ordered, unrelated caregivers receiving FIP for a child placed in the home by children services; see BEM 210; (4) the only dependent child in the FIP group is 19 years old and attending high school full-time. This applies to months before October 1, 2011; or (5) a FIP group with no dependent child(ren). This applies only when the legal parent(s) and/or stepparent receives FIP when their dependent child(ren) is in an out-of-home foster care placement due to abuse and/or neglect when there is a plan to return the child(ren) to the parent's home; see BEM 210. BEM 234 (1-1-2013), page 2.

The Claimant questioned how the 60 month limit could have been met, unless months her parents received assistance when she was in the group were counted. The

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Department witness testified that months when the Claimant was a child would be counted as it goes by the recipient ID. Upon review of the policy and evidence, the Department did not provide accurate testimony in answering this question. The policy specifies individuals who do not receive a FIP time limit count include dependent children age 18 and younger who are eligible in the FIP group. BEM 234 (1-1-2013), page 4. Further, the screen prints of the Michigan/Federal Time Limit Search Summary show that the only months that were counted toward the federal time limit for the Claimant started in February 2005, at which time the Claimant was an adult. (Exhibit A, pages 10-12)

The above cited BEM 234 policy is clear that a family is ineligible when a mandatory member of the FIP group reaches the 60 TANF-funded month federal time limit. While the Notice of Case Action stated that the Claimant had 60 countable months of assistance as of November 1, 2012, the print outs show November 2012 was not a countable month for the Federal limit. (Exhibit A, pages 5 and 10) Rather, the Department's evidence only establishes the Claimant received 59 countable months of assistance toward the federal time limit. (Exhibit A, pages 9-12)

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 did not act in accordance with Department policy when it denied Claimant's FIP eligibility for reaching the federal 60 month 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. Reinstate the Claimant's FIP case retroactive to the March 1, 2013, effective date and re-determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement that she may thereafter be due.

/s/ _____
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2013

Date Mailed: December 13, 2013

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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

CL/hj

cc:

