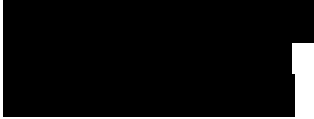


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-8129
Issue No(s): 1010
Case No.: [REDACTED]
Hearing Date: February 3, 2014
County: Wayne (98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on February 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department or DHS included [REDACTED] Case Manager.

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 was an ongoing recipient of FIP benefits. See Exhibit 2.
2. On June 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective August 1, 2013 through January 31, 2014, due to a second FIP noncompliance. See Exhibit 2.
3. Effective October 1, 2013, Claimant's FIP benefits were terminated due to her exceeding the 60-month federal lifetime limit on receipt of FIP assistance. See Exhibit 1.

4. On October 17, 2013, Claimant filed a request for hearing, disputing the Department's action. See Exhibit 1.
5. On January 3, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a three-way hearing on January 15, 2014. See Exhibit 1.
6. On January 16, 2014, the Administrative Law Judge sent Claimant an Order Granting Adjournment for her scheduled hearing. See Exhibit 1.
7. On January 23, 2014, MAHS sent Claimant a new Notice of Hearing, which scheduled her for a three-way hearing on February 3, 2014. See Exhibit 1.

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. 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. BEM 234, pp. 1-2. 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.

Regarding long-term incapacity, at intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the system. BEM 230A (October 2013), p. 12. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Also, determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when

requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. BEM 230A, pp. 12-13. Step three involves the referral to MRT. See BEM 230A, p. 13.

In this case, Claimant was an ongoing recipient of FIP benefits. See Exhibit 2. On June 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective August 1, 2013 through January 31, 2014, due to a second FIP noncompliance. See Exhibit 2. It should be noted that this hearing will not address Claimant's second noncompliance as Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action (June 26, 2013). See BAM 600 (July 2013), pp. 4-5. Effective August 1, 2013, Claimant's FIP benefits would close due to the second noncompliance. However, the Department presented an Eligibility Summary, which indicated that Claimant actually received FIP benefits for August and September 2013. See Exhibit 2. Then, Claimant's FIP benefits terminated effective October 1, 2013, ongoing, due to exceeding the 60-month federal lifetime limit on receipt of FIP assistance. See Exhibit 1.

Based on the above information, there are few discrepancies evident in this case. First, it appears that Claimant was found to have a second noncompliance effective August 1, 2013, however, she received two months of FIP benefits during the noncompliance period (August and September 2013). See Exhibit 2. Second, it was discovered during the hearing that Claimant did not receive a Notice of Case Action notifying her that her FIP benefits would close effective October 1, 2013, ongoing, due to the federal lifetime limit. Claimant testified she discovered her FIP benefits closed when she did not receive her cash assistance for October 2013. Once she discovered from the Department her FIP benefits closed due to the federal lifetime limit, she requested a hearing. The Department testified that a Notice of Case Action was not sent due to her benefits already being closed because of the noncompliance. Third, even though Claimant did not receive a notice of case closure based on the federal lifetime limit, she ultimately requested a timely hearing request. See BAM 600, pp. 4-5. Therefore, this hearing decision will only address Claimant's case closure based on the federal lifetime limit effective October 1, 2013, ongoing.

At the hearing, the Department presented as evidence as Federal TANF Time Limit document, which indicated that Claimant had received a cumulative total of more than 60 months of FIP benefits. See Exhibit 1.

Claimant's argument was that she was deferred from the PATH program in July 2013 due to her medical conditions. See Hearing Summary, Exhibit 1. Even though this decision will not address the noncompliance itself, Claimant testified that she attended her triage on July 5, 2013. Claimant testified that she presented old medical documentation establishing her medical deferral. However, Claimant testified that the Department said her doctor had to complete an updated Medical Needs document for the deferral. Claimant testified that she was given an updated Medical Needs form at

the triage. Claimant testified that her doctor completed the form and she submitted it to the Department the following day. Claimant presented as evidence her Medical Needs document, which was signed on July 18, 2013. See Exhibit A. The Department reviewed its case notes and testified that Claimant failed to present any medical documentation at the triage. However, the Department testified that its case notes did confirm that it did give Claimant medical forms to complete at the triage on July 5, 2013. It should be noted that the Department reviewed its case notes and testified that Claimant was on medically inactive list since April 10, 2013.

Nevertheless, Claimant testified that she was deferred from the PATH program in July 2013. It can be concluded from this information that Claimant was participating in the PATH program before any of the above time periods. 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. BEM 234, pp. 1-2. 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 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). A review of Claimant's Michigan FIP Time Limit information indicated that she was a mandatory participant in the PATH program as of January 2013, ongoing. See Exhibit 1. Also, Claimant's testimony indicated that she was fully participating in the PATH program as of January 2013, ongoing, as well.

In summary, even though Claimant is testifying that she was deferred or should have been medically deferred in July 2013, the evidence shows that she clearly exceeded the 60-month federal lifetime limit before this time period. The Department presented as evidence as Federal TANF Time Limit document, which indicated that Claimant had received a cumulative total of more than 60 months of FIP benefits. See Exhibit 1. Moreover, the evidence indicated that as of January 9, 2013, Claimant was active for FIP benefits and not exempt from the PATH program. A review of Claimant's Michigan FIP Time Limit information indicated that she was a mandatory participant in the PATH program as of January 2013, ongoing. See Exhibit 1.

In summary, the Department did act in accordance with Department policy when it closed Claimant's FIP case effective October 1, 2013 for reaching the 60-month federal time limit.

DECISION AND ORDER

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 closed Claimant's FIP eligibility for exceeding the federal time limit on receipt of FIP benefits effective October 1, 2013, ongoing.

Accordingly, the Department's FIP eligibility decision is AFFIRMED REVERSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 20, 2014

Date Mailed: February 20, 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

EJF/tlf

2014-8129/EJF

cc:

