

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

IN THE MATTER OF:

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

Reg. No.: 2014 9108
Issue No(s): 1001
Case No.: ██████████
Hearing Date: April 3, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 April 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department included ██████████, Family Independence Specialist.

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.
2. On August 23, 2013, the Department notified Claimant that her FIP case would close because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
3. On October 17, 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), pp. 1-2. 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.

The Department mailed Claimant a Notice of Case Action stating her case would close because she had exceeded the countable months of assistance. (Exhibit 1). At the hearing, the Department indicated that Claimant had been placed in deferral status beginning in 2009 as she was establishing incapacity. A review of both the Federal and State Time Limit Counters show that Claimant was intermittently placed in deferral status between 2003 and 2014. (Exhibit 2). However, Claimant's deferral status between December 1, 2013 and January 31, 2014 is unclear. The Time Limit Counter merely states "Federal time limit lawsuit" but does not provide any information regarding her exemption status. Further, Claimant was in an "incapacitated to work" status before December 1, 2013 and an "establishing incapacity" status after January 31, 2014. Therefore, the Department's testimony that as of January 9, 2013, Claimant's deferral status was based on establishing incapacity is accepted.

At the hearing, the Department stated that Claimant's FIP case closed because she exceeded the allowable time limits and because she failed to return the Medical Review Team (MRT) packet necessary to establish her disability. However, the MRT packet was not given to Claimant until after the Notice of Case Action was sent advising that her case would close effective October 1, 2013. The Department confirmed that a separate Notice of Case Action was not sent regarding Claimant's failure to return her MRT packet. Therefore, Claimant's failure to return the MRT packet is not considered in this decision.

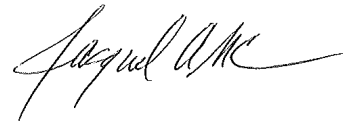
Because it is found that Claimant was in deferral status as of January 9, 2013 and she is therefore eligible for the exception to the Federal time limit counter, the Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP case for exceeding the federal time limit on receipt of FIP benefits.

DECISION AND ORDER

Accordingly, the Department's 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 Claimant's FIP case as of October 1, 2013;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to received but did not receive from October 1, 2013, ongoing; and



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 16, 2014

Date Mailed: April 17, 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;

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- 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

JAM/tm

cc:

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