

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

IN THE MATTER OF:

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Reg. No.: 15-004628
Issue No.: 1001
Case No.: ██████████
Hearing Date: May 07, 2015
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Specialist Case Manager and ██████████, Interpreter.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP) benefits and comply with a prior hearing decision and order?

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 March 4, 2015, an administrative hearing was held concerning the closure of Claimant's FIP case effective December 1, 2014, on the basis that she had exceeded the State 48-month lifetime limit on receipt of such benefits. (Exhibit A)
3. The Hearing Decision associated with the above referenced administrative hearing was mailed on March 10, 2015, and the Administrative Law Judge (ALJ) found that the Department did not act in accordance with Department policy when it closed Claimant's FIP case for exceeding the 48-month state time limit. The ALJ ordered

the Department to initiate certain actions with respect to Claimant's FIP benefits. (Exhibit A)

4. On March 23, 2015, Claimant requested a hearing disputing the Department's actions concerning her FIP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Claimant requested a hearing disputing the Department's actions with respect to the Department's failure to comply with a previously issued hearing decision concerning Claimant's FIP benefits. At the hearing held on March 4, 2015, the ALJ concluded that after removing an improperly imposed employment sanction, the evidence presented showed that "through November 2014, [which was] the last date Claimant actually received a FIP issuance, she received **47** months of State countable months. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective December 1, 2014, for exceeding the 48-month State time limit." (Exhibit A).

The Hearing Decision mailed on March 10, 2015, found that the Department did not act in accordance with Department policy when it closed Claimant's FIP case effective December 1, 2014, for exceeding the 48-month State time limit. The Department was ordered to: (1) Remove the FIP employment-related sanction applied to Claimant's case from December 1, 2014, to February 28, 2015; (2) Reinstate Claimant's FIP case effective December 1, 2014; (3) Issue supplements to Claimant for any FIP benefits she is eligible to receive but did not from December 1, 2014, ongoing, giving her timely notice of any proposed changes to her case in accordance with Department policy. (Exhibit A).

According to BAM 600, the Department is to implement and certify a decision and order within ten calendar days of the mailing date on the hearing decision. BAM 600 (January 2015), pp. 40-42. When a hearing decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification is sent with

the decision and order. The Department is to complete the necessary case action and send the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

At the hearing, the Department testified that it complied with the previous decision and order and presented an Administrative Hearing Order Certification (DHS 1843) that was signed only by [REDACTED] on March 26, 2015, and that referenced a help desk ticket that was issued. (Exhibit B). Attached to the DHS 1843 was an eligibility summary showing that Claimant's FIP case closed in December 2014 and the certification date of the closure was March 26, 2015. Also attached was a Cash Notice Reasons summary for the benefit period December 1, 2014, to December 31, 2014, indicating that eligibility for FIP was denied on the basis that the group has exceeded the State Time Limit maximum. (Exhibit B, pp. 2-3). It should be noted that the DHS 1843 was not signed by a Department supervisor and that it was not completed until after Claimant submitted her request for hearing.

In support of its assertion that it properly implemented the decision and order, the Department presented documentation to show that it removed the FIP employment related sanction that was applied to Claimant's case from December 1, 2014, to February 28, 2015, and that it reinstated Claimant's FIP case effective December 1, 2014. (Exhibit C and Exhibit E). The Department testified that it determined that Claimant was not eligible for a FIP supplement for the month of December 2014 because she had exceeded the state time limit of 48 months. The Department presented a case comments summary which indicates that on March 26, 2015, the help desk ticket was resolved, that the FIP case was reinstated and now properly closing due to the group exceeding the state time limit maximum. (Exhibit F). The Department stated that on March 26, 2015, it sent Claimant a Notice of Case Action informing her of its decision. A review of the Notice of Case Action however, establishes that it does not timely inform Claimant of the time period for any proposed action on her case and in the Comments From Your Specialist About This Notice section simply states: FIP is closing. Individual in the group has exceeded the state limit maximum. Michigan FIP counter is 50 months which exceeds the state limit of 48. (Exhibit D).

The Department did not explain how it was determined that Claimant had exceeded the 48-month State time limit for receipt of FIP benefits in December 2014 or how she was not eligible for a supplement for the month of December 2014 when the prior ALJ clearly concluded that Claimant received 47 months of State countable months at the time her case initially closed effective December 1, 2014. Based on the prior ALJ's decision, Claimant was found eligible for FIP for an additional month, December 2014.

Furthermore, the Department was ordered to provide Claimant with timely notice of any proposed actions or changes to her case. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. BAM 220 (October 2014), p. 4. The Notice sent to Claimant on March 26, 2015, does not sufficiently inform her of the

Department's intended action or when it is to take effect. Therefore, the Department has not established that it properly certified and implemented the prior hearing decision and order in accordance with Department policy.

The Administrative Law Judge, based on 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 processed Claimant's 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. Remove the FIP employment-related sanction applied to Claimant's case from December 1, 2014, to February 28, 2015;
2. Reinstate Claimant's FIP case effective December 1, 2014; and
3. Issue supplements to Claimant for any FIP benefits she is eligible to receive but did not from December 1, 2014, ongoing, giving her timely notice of any proposed changes to her case in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/5/2015**

Date Mailed: **6/5/2015**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days

of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

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