

**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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MAHS Reg. No.: 15-008901
Issue No.: 1010
Agency Case No.: ██████████
Hearing Date: October 21, 2015
County: Oakland-District 4

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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, an in-person hearing was held on October 21, 2015, in Pontiac, Michigan. Petitioner represented herself. The Department was represented by ██████████, Family Independence Specialist.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case because she exceeded the 60-month federal lifetime limit on 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. Petitioner was an ongoing recipient of FIP benefits.
2. On April 23, 2015, the Department sent Petitioner a Notice of Case Action notifying her that effective June 1, 2015, her FIP case would close because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance (Exhibit A, pp. 38-41).
3. On May 29, 2015, Petitioner filed a request for hearing disputing the Department's actions.

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 an April 23, 2015 Notice of Case Action, the Department notified Petitioner that her FIP case was closing effective June 1, 2015 ongoing because she had exceeded the 60-month federal limit for assistance. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits for their household once they receive a cumulative total of 60 months of federally-funded FIP benefits unless they are eligible for an exception to the federal time limit. BEM 234 (July 2013), p. 2. Petitioner does not dispute that she received more than 60 months of cash assistance but argues that she was eligible for ongoing benefits. An exception to the federal time limit count applies to individuals who as of January 9, 2013 were (i) approved for FIP benefits **and** (ii) exempt from participation in the PATH program for reason of domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2.

In this case, the Department presented an eligibility summary that showed that Petitioner received FIP benefits in January 2013 (Exhibit A, p. 7). Petitioner argued that she was deferred from participation in the PATH program due to her disability, and had never participated in PATH due to this reason. The federal TANF time limit showed 71 countable months but did not show Petitioner's PATH status in January 2013 (Exhibit B). Petitioner presented a Hearing Decision issued August 2, 2013 concerning a FIP sanction that had been applied to her case effective April 1, 2013 due to failure to attend a PATH orientation in February 2013; the Hearing Decision alluded to the fact that Petitioner had not been an ongoing PATH participant prior to the time she was sent the PATH Appointment Notice on February 4, 2013 (Exhibit A). Therefore, although the Department established that Petitioner received more than 60 countable months of FIP benefits under the federal time counter, based on the evidence presented, it failed to satisfy its burden of showing that Petitioner was not eligible for an exception to the federal time limit based on incapacity or establishing incapacity.

It is further noted that if Petitioner was eligible for an exception to the federal time limit, the Department failed to present any evidence establishing that she no longer continued to be eligible for the exception. The federal time limit exception ends for an individual

receiving FIP under the exception once the individual is no longer qualified for one of the listed PATH deferral reasons or no longer meets other standard eligibility criteria for FIP. BEM 234, p. 2. Based on the Hearing Decision issued August 2, 2013 (Exhibit 1) and the evidence presented by the Department (Exhibit A, pp. 12-33), Petitioner had alleged a disability and the Department was in receipt of documents pertaining to this medical condition. Once a client indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client is deferred and must provide verification that the disability will last longer than 90 days. Thereafter, the case is referred to the Medical Review Team (MRT) which determines whether a PATH deferral based on disability is granted. BEM 230A (January 2015), pp. 12-13; BEM 230A (January 2013), pp. 9-11. In this case, it appears that the medical evidence was never forwarded to MRT for a decision. Therefore, if Petitioner is eligible for an exception to the federal time limit, in the absence of any MRT decision, Petitioner's PATH status remains establishing incapacity.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP case.

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 Petitioner's FIP case effective June 1, 2015;
2. Issue FIP supplements to Petitioner for June 1, 2015 ongoing; and
3. Timely notify Petitioner in writing of any changes to her case.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/30/2015**

Date Mailed: **10/30/2015**

ACE / 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]