

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003763
Issue No.: FIP
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: KENT-DISTRICT 1 (FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED] Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant's Family Independent Program (FIP) applications based on having exceeded the 48 month State time limit for this program?

Did the Department properly determine Claimant's eligibility for the Food Assistance Program (FAP) since January 2015?

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 is a FAP recipient.
2. In November 2014 Claimant applied for FIP.
3. On November 14, 2014, a Notice of Case Action was issued denying FIP and approving FAP for November and December 2014.
4. On January 7, 2015, Claimant's FAP eligibility was re-certified for a group size of 6.
5. On January 13, 2015, Claimant re-applied for FIP.
6. On January 21, 2015, a Notice of Case Action was issued to Claimant stating FIP was denied based on having exceeded the 48 month State time limit for this program.

7. On January 21, 2015, an interview was completed and it was reported that a group member moved out of the home.
8. On January 28, 2015, a Notice of Case Action was issued to Claimant stating the FAP allotment would decrease effective February 1, 2015, because a group member no longer lives in the home.
9. On February 23, 2015, Claimant filed a hearing request¹ contesting 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).

As discussed on the record, there was some confusion regarding the programs at issue for this hearing request. The Department's Hearing Summary and exhibits, in part, addressed case actions that occurred after the February 23, 2015, hearing request was filed. Further, Claimant testified that she did not receive Notices of Case Actions that the Department testified were issued to her prior to the filing of the February 23, 2015, hearing request. Copies of those notices were not included in the Department's exhibits. Accordingly, some leniency with the timeliness of the hearing request and allowing the Department to provide testimony rather than documentary evidence was allowed to try address all of the contested programs/issues that occurred prior to the filing of the February 23, 2015, hearing request.

FIP

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.

The FIP benefit program is not an entitlement. BEM 234 (July 1, 2013), p. 1. Time limits are essential to establishing the temporary nature of aid as well as communicating the FIP philosophy to support a family's movement to self-sufficiency. BEM 234, p. 1. Effective October 1, 2011, BEM 234 restricts the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 48 months for State-funded FIP cases for which no months were exempt. BEM 234, p. 4.

¹ On the February 23, 2015, hearing request, Claimant also contested Department action(s) regarding the State Emergency Relief (SER) program. Claimant testified that there are no longer any contested issues regarding SER and withdrew the SER portion of the hearing request on the record. Accordingly, the SER portion of this appeal is DISMISSED.

The 48-month lifetime limit for State-funded FIP cases allows exemption months in which an individual does not receive a count towards the individual's 48-month lifetime limit. BEM 234, p. 4. Exemption months are months the individual is deferred from the Partnership.Accountability.Training.Hope. (PATH) program for (i) domestic violence; (ii) being 65 years of age or older; (iii) a verified disability or long-term incapacity lasting longer than 90 days (including establishing incapacity); or (iv) being a spouse or parent who provides care for a spouse or child with verified disabilities living in the home. BEM 234, p. 4. FIP benefits received prior to October 1, 2006, are not State-funded. BEM 234, pp. 3.

Each month an individual serves a sanction period, those months count toward their state time limit. Sanction months should be counted starting October 1, 2007. BEM 234, p. 6.

Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets an exemption criteria. BEM 234, p. 7.

In this case, Claimant testified there was a November 2014 FIP application for which she never received a Notice of Case Action. Claimant asserted that a Department Case Worker advised her to re-apply in January 2015 and stated she would be eligible because the months prior to April 2011 would not count.

The above cited BEM 234 policy indicates that while the policy went into effect April 1, 2011, some months prior to April 2011 still count toward the State time limit. Specifically, the policy only directs that benefits received prior to October 1, 2006, do not count toward the State time limit. Therefore, any months benefits were received October 1, 2006, or later are counted toward the State time limit. Additionally, any sanction months starting October 1, 2007, are also counted.

The Department submitted the Michigan/Federal Time Limit Search Summary documenting that for the State time limit, Claimant has received 50 countable months. Further, the submitted Michigan FIP Time Limit printout establishes that the 50 countable months for Claimant occurred between October 2007 and November 2013. Accordingly, the Department properly denied Claimant's FIP applications based on exceeding 48 month State time limit for this program.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Claimant testified she did not receive the January 28, 2015, Notice of Case Action regarding FAP. Claimant understood from her meeting with the Department Case Worker that the FAP would decrease with a group member leaving the home. However,

Claimant asserted that the FAP benefits are not actually being loaded onto her EBT card.

During the hearing proceedings, the Department reviewed the electronic case file to provide some testimony regarding any case actions for the FAP case. It appears that a recertification for FAP was completed in on or about January 7, 2015. However, it also appears only a prorated benefit was issued for January 2015, based on a re-application in late January 2015. Overall, there was insufficient evidence for this ALJ to review the FAP case action(s). Claimant's FAP eligibility should be re-determined from January 2015 forward.

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 acted in accordance with Department policy when it denied Claimant's FIP applications based on having exceeded the 48 month State time limit for this program but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's eligibility for FAP since January 2015.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FIP denials and **REVERSED IN PART** with respect to the FAP eligibility determinations since January 2015.

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. Re-determine Claimant's eligibility for FAP retroactive January 2015 in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.

3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/24/2015**

Date Mailed: **4/24/2015**

CL/hj

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:

