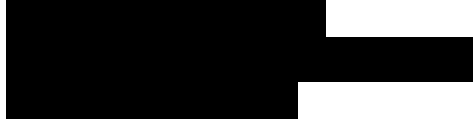


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-016019
Issue No.: 1010
Agency Case No.: [REDACTED]
Hearing Date: October 28, 2015
County: Wayne (17) Greenfield/Joy

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, a telephone hearing was held on October 28, 2015, from Detroit, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], FIS Case Manager.

ISSUE

1. Did the Department properly deny the Petitioner's Family Independence Program (FIP) cash assistance application for exceeding the 48-month State of Michigan FIP limit?
2. Is the Petitioner entitled to another hearing after a prior hearing decision adverse to Petitioner on the same issue?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 19, 2015, Administrative Law Judge (ALJ) Jacquelyn McClinton issued a Hearing Decision regarding whether the Department had properly closed the Petitioner's FIP benefits once her deferral from the PATH program ended and she had exceeded the 60-month Federal time limit. ALJ McClinton found that the Medical Review Team (MRT) reviewed the Petitioner's medical information and issued a Medical-Social Eligibility Certification, which found the Petitioner work-ready with limitations. The ALJ concluded that the Department had properly closed the Petitioner's case as she was no longer in deferral status from PATH, and she had received more than 60 months of FIP benefits. Exhibit H.

2. The Department presented a Michigan FIP Time Limit showing that the Petitioner was deferred on January 9, 2013, from the PATH program because she was caring for a disabled adult. Exhibit G.
3. The Petitioner applied for FIP cash assistance on July 2, 2015, stating that she was disabled and unable to work. After receiving the FIP application, the Department sent the Petitioner a Medical Needs Form on August 3, 2015. The completed Medical Needs Form was received by the Department on August 17, 2015.
4. Based upon a prior Medical Needs Form dated August 19, 2014, the Department determined that the Petitioner had been referred to the MRT for the same medical condition and was denied a medical deferral on June 30, 2014. Exhibit C and Exhibit E. The Department concluded that no new medical conditions were reflected on the new Medical Needs Form and concluded that Petitioner was not deferred and, therefore, did not refer the medical information to the MRT for its determination. Exhibit D. The Department further relied upon the fact that as of June 30, 2014, the MRT found the Petitioner work-ready with limitations.
5. On August 21, 2015, the Department issued a Notice of Case Action closing the Petitioner's FIP cash assistance case effective October 1, 2015, because the Petitioner had received 60 months or more of Federal FIP cash assistance benefits. Exhibit A.
6. The Petitioner requested a hearing on September 1, 2015, protesting the Department's decision.

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, the Department denied the Petitioner's FIP cash assistance application dated July 2, 2015, based upon her claim of a deferral based upon her disabilities. The Department, in reviewing the application, determined that a previous MRT decision ending the Petitioner's deferral from Path because she was work-ready with limitations, did not require the Department to send Petitioner's new application and deferral request from the PATH program to the Disability Determination Service (DDS). The MRT on June 9, 2014, issued Medical-Social Eligibility Certification finding the Petitioner work-eligible with limitations.

Although the undersigned at the time of the hearing stated that the Department's actions were correct, upon further review of Department policy it is determined that the Department's actions denying the July 2, 2015, FIP application were incorrect and not in compliance with Department policy.

The Petitioner was deferred from the Federal Time limit of 60 months on January 9, 2013, because she was deferred from the Path program due to caring for a disabled spouse. Exhibit G. In this case, the Petitioner's July 2, 2015, application was required to be processed to the DDS to determine if she met any of the deferral requirements set forth below, which include age 65 or older, establishing incapacity, incapacitated for more than 90 days, or care of a spouse or child with disabilities. The Petitioner submitted a new Medical Needs Form on August 17, 2015, which was never processed. This was an error, because the Department must determine if the Petitioner meets any of the criteria for deferral. If a deferral is met, the Petitioner would be eligible for state funded FIP cash assistance as the Petitioner's state funding has not yet reached 48 months. The Petitioner is entitled to have her new application reviewed and a deferral by DDS made.

Department policy provides:

**Federal Time
Limit Exception**

Michigan will provide an exception to the federal 60-month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

- An approved/active ongoing FIP EDG **and**
 - Who was exempt from participation in the Partnership.Accountability.Training.Hope. (PATH) program for: Domestic violence.
 - Age 65 or older.
 - Establishing incapacity.
 - Incapacitated more than 90 days.
 - Care of a spouse with disabilities.
 - Care of a child with disabilities.

The exception continues as long as:

- The individual's ongoing FIP EDG reaches 60 TANF federal months **and** the individual remains one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.
- The individual, at application, is approved as **any** of the above employment deferral reasons. In these instances, the FIP EDG will be state funded. BEM 234 (July 1, 2013), p. 2.

The exception ends once one of the above individuals **no** longer qualifies for one of the above employment deferral reasons or they **no** longer meet other standard eligibility criteria for FIP. The FIP EDG will close or the application will be denied.

- Bridges will identify the above clients on the *Michigan/Federal Time Limits Search Summary* screen.

After a review of the evidence presented, it is determined that the Petitioner's application for FIP should have been processed to determine whether there was a basis for deferral based upon disability. In addition, the Department must also consider if Petitioner's application might also be processed to determine eligibility for State Disability Assistance if Petitioner has no minor children in the home. Also, the Department must determine if the Petitioner still cares for her disabled spouse, which was the basis for her last deferral.

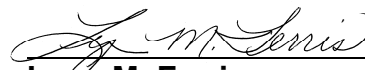
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the Petitioner's FIP application for exceeding the Federal Time Limit.

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. The Department shall re-register the Petitioner's July 2, 2015, FIP application and process the application in accordance with Department policy to determine if the Petitioner meets a deferral on any basis.
2. The Department shall provide written notice to the Petitioner of its decision.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/13/2015**

LMF/jaf

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:

