

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201271889 & 201217961
Issue No: 1021
Case No: [REDACTED]
Hearing Date: October 25, 2012
Wayne-57 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

RECOMMENDED HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 25, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

[REDACTED] had two separate hearings scheduled for the same time slot of 10:30 a.m. on October 25, 2012. Both hearings were scheduled as a result of [REDACTED] completing two separate hearing requests. Prior to the hearing and during the hearing, the Claimant indicated both hearing requests were regarding the same common nucleus of operative fact and the same issue. Therefore, both files were combined and are addressed in this one decision.

ISSUE

Whether the department properly determined Claimant's eligibility for Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. Prior to March 16, 2012, the Department closed the Claimant's FIP case due to the Claimant meeting the federal 60 month limit for the FIP program.
2. On or around March 16, 2012, the Department reactivated the Claimant's FIP case.

3. On or around July 19, 2012, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FIP benefits were to close on August 1, 2012, due to the Claimant meeting the state 48 month limit for the FIP program.
4. On July 19, 2012, the Claimant requested a hearing to protest the FIP closure

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, M.A.C. R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance is denied. MAC R 400.903(1)

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The department administers the FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The FIP benefit program is not an entitlement. BEM 234. 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. 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 and 60 months for those cases funded by federal Temporary Assistance for Needy Families (TANF) funds. Notwithstanding the 48-month lifetime limit for state-funded FIP cases, a family is not eligible to receive FIP assistance beyond 60 consecutive or non-consecutive TANF months. BEM 234. Federally-funded TANF countable months began to accrue for FIP on October 1, 1996. BEM 234.

In this case, the department presented evidence establishing that Claimant had received 48 months of state-funded FIP assistance.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

the fact-finder to determine.² In evaluating the credibility and weight to be given to the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the computer-generated printout[s] provided by the department, establishing the total months in which Claimant received state-funded FIP benefits, to be persuasive.

Accordingly, I find, based on the competent, material, and substantial evidence presented during the hearing, the department acted in accordance with policy in closing Claimant's FIP benefits case effective August 1, 2012 for the reason that Claimant has reached the 48-month limit of state-funded FIP assistance and was therefore no longer eligible to receive such assistance.

However, because the department's determination of Claimant's eligibility for FIP benefits was based on the department's application of a policy and statute the validity of which remains the subject of a pending court challenge,⁴ Claimant's hearing request is not within the scope of authority delegated to me by the department's Director. Specifically, the Director's July 31, 2011 Delegation of Hearing Authority provides in relevant part:

Administrative hearing officers have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or overrule or make exceptions to Department policy. . . . *A presiding administrative hearing officer shall make a recommended decision to the Policy Hearing Authority in those cases . . . in which the presiding administrative hearing officer believes Department policy to be out of conformity with case law, statute, or promulgated regulations* . The Policy Hearing Authority will issue a final decision in such cases, and the final decision shall be precedent binding on the administrative hearing officers. (Emphasis added).

Consequently, I make the following recommended decision.

RECOMMENDED DECISION

I find, based upon the above findings of fact and conclusions of law, decide that the department acted in accordance with policy in closing Claimant's FIP benefits case effective August 1, 2012 for the reason that Claimant has reached the reached the 48-

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

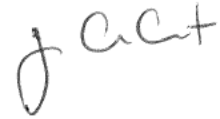
³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

⁴ *Smith, et al v Department of Human Services*, ___ N.W.2d ___, 2012 WL 2401397, Mich. App., June 26, 2012 (NO. 309447, 309894); *Smith, et al v. Department of Human Services*, 820 N.W.2d 773, ___ Mich ___, Sept. 21, 2012.

month limit of state-funded FIP assistance. Therefore, it is recommended that the department's closure of Claimant's FIP benefits case is **UPHELD**.

EXCEPTIONS

The parties may file Exceptions to this Recommended Decision within fifteen (15) days after it is issued and entered. An opposing party may file a response within five (5) days after Exceptions are filed. Any such Exceptions shall be filed with Maura Corrigan, Director, Department of Human Services, 235 S. Grand Ave., P.O. Box 30037, Lansing, Michigan 48909.



Corey A. Arendt
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 26, 2012

Date Mailed: October 26, 2012

CAA/las

cc:

