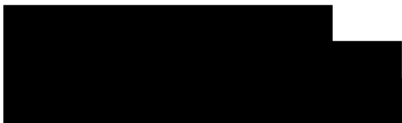


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201222085
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: March 28, 2012
County: Genesee County DHS (06)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 28, 2012 from Lansing, Michigan. Claimant personally appeared and provided testimony. The Department of Human Services (Department) was represented by Department personnel.

ISSUE

Did 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. Claimant was a recipient of FIP benefits at all times relevant to this hearing.
2. On November 30, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FIP benefits because he reached the 60 month limit for federally-funded FIP benefits.
3. On December 5, 2011, Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

Testimony and other evidence must be weighed and considered according to its reasonableness. *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 weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW 2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds the computer-generated printouts provided by the Department establishing the total months in which Claimant received federally-funded FIP benefits to be persuasive. This Administrative Law Judge further finds Claimant's disagreement with the Department's calculation to be unpersuasive in the absence of any supporting documentation.

Accordingly, the Administrative Law Judge finds that, 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 for the reason that Claimant has reached the 60-month limit of federally-funded FIP assistance and was therefore no longer eligible to receive such assistance.

However, because the Department's determination of Claimant's eligibility for FICA 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,¹ Claimant's hearing request is not within the scope of authority delegated to this Administrative Law Judge 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, the Administrative Law Judge makes the following recommended decision.

¹ *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.

RECOMMENDED DECISION

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in closing Claimant's FIP benefits for the reason that Claimant has reached the 60-month limit of federally funded FIP assistance. Therefore, this Administrative Law Judge recommends that the Department's closure of Claimant's FIP benefits case be **AFFIRMED**.

EXCEPTIONS

The parties may file Exceptions to this Recommended Decision within 15 (fifteen) days after it is issued and entered. An opposing party may file a response within 5 (five) 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.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 29, 2013

Date Mailed: May 1, 2013

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