

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-39425
Issue No.: 1080, 5026
Case No.: [REDACTED]
Hearing Date: May 1, 2013
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received by the Department of Human Services (Department) on March 28, 2013. After due notice, a telephone hearing was held on May 1, 2013, from Detroit, Michigan. Participants on behalf of the Claimant included Claimant. Participants on behalf of the Department included [REDACTED]

ISSUE

Whether the Department properly determined that Claimant has exceeded the 60-month federal lifetime limit on Family Independence Program (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. Claimant was an ongoing recipient of FIP benefits.
2. On February 10, 2013, the Department notified Claimant that her FIP case would close effective March 1, 2013, because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance as of October 1, 2011.
3. On March 19, 2013, claimant applied for a SER for a shelter emergency.
4. On February 13, 2013, the Department received Claimant's Request for Hearing, disputing the Department's action on the basis that Claimant had exceeded the

lifetime limit to receive FIP benefits, and to protest the denial of her SER application.

CONCLUSIONS OF LAW

FIP Federal Limit of 60 months

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

The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013), p. 1. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits once they receive a cumulative total of 60 months of FIP benefits, unless the individual was approved for FIP benefits as of January 9, 2013, **and** was exempt from participation in the Partnership.Accountability.Training.Hope (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. BEM 234 (January 1, 2013), p. 1; MCL 400.57a (4); Bridges Federal Time Limit Interim Bulletin (BPB) 2013-006 (March 1, 2013), p. 1. The federal limit count begins October 1996. BEM 234, p. 1.

In the present case, the Department failed to provide documentation of the months it used to find that Claimant had exceeded the 60-month time limit and, therefore, failed to support its case for closure based on exceeding the FIP state time limit..

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). Moreover, 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). In evaluating the credibility and weight to be given 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. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

In this case, the Department failed to place into evidence the months that Claimant had received FIP benefits. .

Thus, the Department did did not act in accordance with Department policy when it closed Claimant's FIP case effective March 16, 2013, for reaching the 60-month federal time limit.

SER Shelter Emergency

The Department denied Claimant's SER application for a shelter emergency because, according to the Department, Claimant failed to submit documentation of her pending eviction.

At the hearing, Claimant produced court documents from the [REDACTED] District Court including a Summons and Complaint for Non-Payment of Rent, for a court date of [REDACTED].

Thus, the Department improperly denied the Claimant's March 19, 2013, SER application.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case improperly closed Claimant's FIP case, and improperly denied the Claimant's application for SER for emergency shelter.

DECISION AND ORDER


The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, decides that the Department

did act properly.
 did not act properly.

Accordingly, the Department's FIP eligibility determination is
 AFFIRMED. REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate the re-instatement of Claimant's FIP back to March 16, 2013, and supplement for any missed benefits.
2. Initiate the re-registration of Claimant's SER application and accept the documentation showing Claimant's emergency shelter needs.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 28, 2013

Date Mailed: May 29, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MJB/pf

cc:

