

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

IN THE MATTER OF:



Reg. No.: 201343086
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: May 28, 2013
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (Department) on April 8, 2013. After due notice, a telephone hearing was held on May 28, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department included [REDACTED] (Family Independence Specialist).

ISSUE

Whether the Department properly determined that Claimant exceeded the lifetime limit on 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 active for FIP benefits.
2. On April 4, 2013, the Department determined that Claimant was not eligible for FIP benefits after exceeding the lifetime limit on cash assistance program benefits funded with temporary assistance for needy families.
3. On April 4, 2013, the Department notified Claimant of the closure.
4. On April 8, 2013, the Department received Claimant's Request for Hearing, disputing the Department's action on the basis that the Department incorrectly calculated her months of FIP assistance based on a deferral period of disability.

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. See Bridges Administrative Manual (BAM) 600; effective February 1, 2013. 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 (Mich Admin Code), R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because the claim for assistance is denied. Mich Admin Code, R 400.903(1).

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 BAM, the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The FIP benefit program is not an entitlement. BEM 234 (January 1, 2013). 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. BEM 234 and MCL 400.57a (4) restrict the total cumulative months that an individual may receive FIP benefits to a lifetime limit of 60 months for cash assistance program benefits funded with temporary assistance for needy families whether or not those months are consecutive.

In the present case, the Department contends that Claimant exceeded her 60 month federal time limit for FIP assistance. Claimant, on the other hand, states that she had a deferral for medical reasons. The Department further contends that on January 31, 2013, it mailed Claimant a verification checklist packet which included the following forms: DHS-49, DHS-49D, DHS-E, DHS-F, and DHS-G. The DHS forms were all due no later than February 11, 2013. The Department claims that it received the completed DHS-49F and DHS-49G, but did not receive the DHS-49, DHS-49D and DHS-49E forms. Claimant responds that she timely sent "everything" to her previous worker. The Department worker who attended the hearing testified that she had replaced Claimant's previous worker and that she could neither confirm nor corroborate Claimant's testimony. The Administrative Law Judge held the record open so the Department could obtain confirmation whether Claimant returned the requested verifications concerning her continued deferral.

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).

The Department provided a Bridges View History Correspondence document in the record which indicated that the Department did not mail Claimant the DHS-49, DHS-49D and DHS-49E forms. This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds the Department has not met its burden of proving by a preponderance of the evidence that Claimant has reached or exceeded the lifetime limit of 60 months for cash assistance program benefits funded with temporary assistance for needy families.

Accordingly, the Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the Department did not properly determine that Claimant reached the 60 month lifetime limit for federally funded FIP benefits.

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 did not properly close Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not act properly when it determined that Claimant reached the 60 month lifetime limit of federally funded FIP assistance.

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

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

- The Department shall determine whether Claimant is entitled to a deferral based on disability.
- The Department shall recalculate the number of months Claimant had received FIP benefits and recalculate the number of months Claimant is entitled to a deferral based on disability.
- The Department shall then redetermine Claimant's FIP eligibility and recalculate the months Claimant has received federally funded FIP assistance.
- To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FIP benefits.

IT IS SO ORDERED.

/s/
C. Adam Purnell
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 effect 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

CAP/aca

cc:

