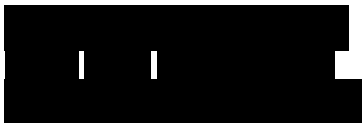


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 20131507
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: May 22, 2013
County: Wayne (76)

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). After due notice, a telephone hearing was held on May 22, 2013 from Lansing, Michigan. Claimant personally appeared at the St. Clair County DHS office and provided testimony. Participants on behalf of the Department included [REDACTED] (Family Independence Manager-Wayne County (76)) and [REDACTED] (Family Independence Manager-St. Clair County).

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. Claimant submitted an online application for FIP on June 8, 2012.
2. On September 10, 2012, the Department's Wayne County Seven Mile/Gratiot District Office received Claimant's Request for Hearing, requesting the Department allow her to receive FIP (TC-60) based on her online FIP application.

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, Claimant contends that in May 2012 she contacted the Department in Lansing and was advised that she could apply for FIP benefits as she had 60 months of eligibility remaining. Claimant then indicates that she submitted a FIP application online for benefits. (The Department did include the first two pages of a July 18, 2012 Notice of Case Action (DHS-1605) which indicated that her Food Assistance Program (FAP) benefits increased to \$829.00 effective August 1, 2012. But the Department did not include a Notice of Case Action (DHS-1605) in the hearing packet regarding Claimant's June 8, 2012 purported online FIP application.) The Department did include the "Notice Regarding About FIP/Cash Assistance Time Limit Lawsuit" which provides that due to the lawsuit, a Claimant may be eligible for FIP benefits back to March 28, 2012 if he or she completes a paper application and returns it to the local office before June 11, 2012. This notice further provides, "[i]f you do not want DHS to determine eligibility back to March 28, 2012, you can apply online. . ." Claimant in the instant matter requests FIP back to March 28, 2012 despite the fact that she submitted an online application because a Lansing-based Department worker advised her that she could submit an online application. Claimant stated that she never received the above referenced notice and was unaware that an online application was insufficient to obtain FIP benefits back to March 2012.

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 presented sufficient credible testimony and documentary evidence at the hearing to establish that Claimant is not entitled to FIP benefits back to March 28, 2012. This Administrative Law Judge does not believe Claimant's testimony that she did not receive a copy of the TC-60 Notice. This Administrative Law Judge is not persuaded by Claimant's assertions that an unnamed and unidentified employee from the Department's Lansing office advised her she could submit an online application. Here, Claimant is not entitled to FIP benefits based on her online application.

This record did not contain any evidence regarding whether 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 is not required to provide Claimant with FIP benefits back to March 28, 2012.

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 acted properly when it failed to provide Claimant with FIP benefits back to March 28, 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did act properly when it determined that Claimant was not entitled to FIP benefits back to March 28, 2012 because Claimant submitted an online application and did not follow the proper procedures as set forth by the TC-60 Notice.

Accordingly, the Department's determination regarding Claimant's March 28, 2012 FIP eligibility is **AFFIRMED**.

IT IS SO ORDERED.

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

Date Signed: May 24, 2013

Date Mailed: May 28, 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:

