

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

IN THE MATTER OF:



Reg. No.: 14-003035
Issue No.: 1010; 5007
Case No.: [REDACTED]
Hearing Date: August 11, 2014
County: WAYNE-DISTRICT 57

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Case Manager.

ISSUE

Did the Department properly determine that Claimant exceeded the 60-month federal lifetime limit on receipt of Family Independence Program (FIP) benefits and was not eligible for an exception?

Did the Department properly process Claimant's State Emergency Relief (SER) request?

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 received FIP benefits and requested SER benefits.
2. On [REDACTED], the Department issued an SER Decision Notice, paying the fiscal cap amount for Heat-Natural Gas/Wood/Other and paying the past due amount for non-heat electricity. In addition, the Department waived Claimant's payment prior to making its payment.
3. On [REDACTED], the Medical Review Team determined that Claimant was work ready with limitations.

4. On [REDACTED], the Department notified Claimant that the FIP case would close because Claimant had exceeded the 60-month federal lifetime limit on receipt of FIP assistance.
5. On [REDACTED], Claimant/Claimant's Authorized Hearing Representative (AHR) filed requests for hearing, disputing the Department's action with regard to FIP and SER.

CONCLUSIONS OF LAW

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3101 to .3131. 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 (7/2013), 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 they are eligible for an exception to the federal time limit. An exception exists for individuals who were, as of January 9, 2013, (1) approved/active for FIP benefits **and** (2) exempt from participation in the Partnership.Accountability.Training.Hope. (PATH) program for domestic violence, establishing incapacity, incapacitated more than 90 days, age 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2; MCL 400.57a(4). The exception continues as long as the individual remains eligible for any of the foregoing employment deferral reasons. BEM 234, p. 2. The federal limit count begins October 1996. BEM 234.

In this case, Claimant received FIP benefits from 1996 through 2014, at times being exempt from participating in PATH. However, MRT determined in May of 2014 that Claimant was Work Ready with Limitations. Therefore, Claimant no longer was eligible for an employment deferral. In reviewing the Federal TANF Time Limit information (Exhibit 3) with Claimant and the Department during the hearing, the Department persuasively testified that Claimant received 119 months of non-exempt FIP payments from October of 1996.

Claimant presented May 2014 medical documentation that MRT did not review. Claimant may reapply for FIP benefits to allow MRT to review that documentation.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Claimant's FIP case due to exceeding the federal time limit on receipt of FIP benefits.

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

The following are covered utility services:

Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.

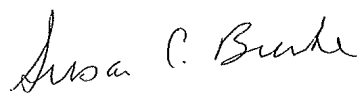
ERM 302 (10/2013), p. 1

In the present case, Claimant requested a past-due amount of \$357.38 in non-heat electricity and the Department paid that amount. Claimant at the hearing argued that the Department should have paid the fiscal cap amount, \$450.00 (ERM 301 (10/2013), p. 10). However, the Department was correct in paying only what was past due and the amount requested by Claimant. ERM 302 (above). Claimant also testified that the Department paid the fiscal heat cap amount of \$450.00 (ERM 301, p. 10) and waived Claimant's payment for heat.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy in processing Claimant's SER request.

DECISION AND ORDER

Accordingly, the Department's decisions are AFFIRMED.



Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/19/2014**

Date Mailed: **9/19/2014**

SCB / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

cc: Lanya Johnson

