

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14686
Issue No.: 1001
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

Upon Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37, and Title 45 of the Code of Federal Regulations (CFR), particularly 45 CFR 205.10. After due notice, a telephone hearing was held on February 27, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her authorized hearings representative [REDACTED]. Participants on behalf of the Department included [REDACTED], [REDACTED], Family Independence Manager and [REDACTED], Family Independence Specialist.

This case was originally scheduled and set as an in person hearing as requested by Claimant. Because of inclement weather and the subsequent closing of I-96 West Hwy. west of Lansing, Michigan on February 27, 2014, the Administrative Law Judge requested to hold the hearing via telephone. An adjournment was offered. All parties agreed to conduct the teleconference hearing.

ISSUE

Did the Department properly determine that Claimant 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 a FIP benefit recipient under a deferral for medical limitations.

2. Claimant alleged that she was eligible to receive a medical deferral and requested a medical deferral.
3. Claimant continued to receive the FIP benefits pending the medical review team's determination of her medical condition and disability.
4. On November 13, 2013, 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 as of September 11, 2011.
5. On November 13, 2013, the Department notified Claimant that her FIP case would close because the Medical Review Team determined on November 12, 2013 that Claimant was not disabled and not eligible for a medical deferral.
6. On November 19, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a request for hearing, disputing the Department's action.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a 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, 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, p. 1. When a deferral is not granted, it is not a loss of benefits, termination or negative action. When a client requests a hearing based on not being granted a deferral, be sure to advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the Administrative Law Judge the action did not result in a loss of benefits or services. Be sure the client understands the time to file a hearing is once he/she receives a notice of case action for noncompliance. BEM 230A, page 20.

In this case, the MRT determined that Claimant's status is: not disabled - work ready with limitations. The assessment determined that Claimant can frequently lift or carry less than 10 pounds and occasionally carry 10 pounds. She can walk at least two hours in an 8 hour workday and sit about 6 hours in an 8 hour work day. She was determined to have no mental limitations. (State's Exhibit #14)

Claimant alleges that she has physical and mental impairments which prevent her from working and that she should be given a medical deferral because she is incapacitated or disabled from working for more than 90 days. (Claimant's Exhibits #15-440, medical packet).

On September 16, 2011 the Social Security Administration Administrative Law Judge [REDACTED] determined that Claimant is not disabled under Sections 216(i) and 223(d) of the Social Security Act and is also not disabled for Supplemental Security income under Section 1614(a)(3)(A) of the Social Security Act. The Administrative Law Judge [REDACTED] determined that claimant would be able to perform the requirements of representative occupations such as office helper, bench assembler, and small parts assembler. (Claimant's Exhibits #429-435, medical packet)

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905

Claimant concedes that she has been denied disability by the Social Security Administration and that her case is currently with the Appeals Council awaiting final decision. Thus, Claimant has not been determined to be disabled or incapacitated at either the federal level or by the Medical Review Team. Since she has not been determined to be disabled, she does not meet the requirements for deferral as established by Department policy.

Once an individual reaches a FIP time limit and the FIP closes, the individual is not eligible for FIP if the individual reapplies and meets any exemption criteria. BEM, Item 234, page 7.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it cancelled Claimant's FIP eligibility for exceeding the 60 month federal time limit on receipt of FIP benefits. The Department has also properly determined that Claimant has not been determined disabled under the Social Security Act or by the Medical Review Team, and does not meet the criteria for a medical deferral for purposes of retention of FIP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has appropriately established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it proposed to cancel Claimant's application Family Independence Program benefits, based upon the Department's determination that Claimant did not meet the criteria for a medical deferral. The Department has established its case by a preponderance of the evidence.

Accordingly, the Department's decision is AFFIRMED.



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/3/14

Date Mailed: 3/4/14

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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.

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The Department, AHR or the Claimant 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 the hearing decision is mailed.

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

LYL/tb

cc:

