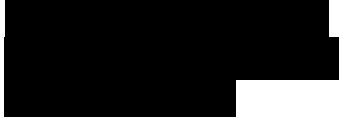


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014348
Issue No.: 1021
Case No.: [REDACTED]
Review Date: October 15, 2013
County: Genesee (16)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

STATE LEVEL ADMINISTRATIVE REVIEW DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37 and Bridges Hearing Pilot Bulletin (BPB) 2013-010 (6-1-2013) following Claimant's request for an appeal of a local evidentiary hearing decision dated September 12, 2013. The following is an administrative review of the local evidentiary hearing record which includes a review of the digital recording of the hearing, the facts of the case, the applicable law and the evidence presented at the local evidentiary hearing. This appeal was not scheduled for a hearing based on BPB 2013-010, pages 26-28 (6-1-2013).

PROCEDURAL HISTORY

On July 12, 2013, the Department of Human Services ("Department") mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's Family Independence Program (FIP) case effective August 1, 2013. On July 29, 2013, Claimant requested a hearing to challenge the Department's action pertaining to the closure of her FIP benefits. On September 9, 2013, Claimant had a local evidentiary hearing before a hearing official pursuant to MCL 400.9, MCL 400.37, Mich Admin Code R 400.903 and BPB 2013-010 (6-1-2013). On September 12, 2013, the hearing official issued a Local Evidentiary Hearing Decision which affirmed the Department. On September 27, 2013, Claimant appealed the hearing official's decision.

LOCAL EVIDENTIARY RECORD

The Administrative Law Judge, based on an administrative review of the local evidentiary hearing digital recording, the evidence presented at the local evidentiary hearing, the local evidentiary hearing decision and the applicable law, finds the following:

1. The hearing official determined the following material facts:
 - On July 12, 2013, the Department issued a case action informing Claimant that her FIP case would close due to having reached the Federal Time Limits for FIP benefits. (LEH Decision at p. 2)
 - Claimant requested a hearing to dispute the FIP closure on July 18, 2013.

2. The hearing official included the following evidence in the local evidentiary hearing record:
 - Notice of Case Action (Exhibit pages 3-6)
 - Federal Time Limit Counter (Exhibit pages 7-11)
 - Cash EDG Summary (Exhibit page 12)
 - MRT Packet (Exhibit pages 13-122)

3. The hearing official found that the Department correctly determined that (1) Claimant had received 60 months of FIP benefits and (2) that she had reached the maximum number of months of FIP benefits.

ISSUE

Whether the Local Evidentiary Hearing Official erred when he upheld the Department's determination that Claimant had exceeded the 60-month federal lifetime limit on Family Independence Program (FIP) benefits and was ineligible for an exception?

CONCLUSIONS OF LAW

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

Effective May 1, 2013, the Department replaced BRB 2013-007 with the Bridges Hearing Pilot Bulletin, which is BRB 2013-010. This hearing pilot policy is for the DHS county offices that are participating in the Hearings Pilot for assistance payment programs. The pilot counties are: (1) Genesee County, effective May 2013; (2) Washtenaw County, effective July 2013; and (3) Jackson County, effective September 2013. See BRB 2013-010, p. 1 (6-1-2013).

The hearings pilot policy applies to the following programs: Family Independence Program (FIP), State Disability Assistance (SDA) (Eligibility), Refugee Cash Assistance (RCA), Food Assistance Program (FAP), Medicaid (MA) (Eligibility), Child Development and Care (CDC) and State Emergency Relief (SER). See BRB 2013-010, p. 1 (6-1-2013).

With regard to the above-listed programs, BRB 2013-010 provides that clients have the right to contest a department decision affecting eligibility or benefit levels when they believe the department has taken an action in error. The department now provides a **two-step hearing process** to review the decision and determine appropriateness. The following policy meets the federal and state requirements for a hearing. BRB 2013-010, p 1, 6-1-2013. (Emphasis added). Step One: A local evidentiary hearing conducted by a hearing official. There are appeal rights from the local evidentiary hearing to a state level administrative hearing system. Step Two: A state level hearing with Michigan Administrative Hearing System (MAHS). BRB 2013-010, p 1, 6-1-2013.

For FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility) CDC and SER, the department, attorney general, client and/or the authorized representative, or authorized hearing representative may file a written request for a state level review. BRB 2013-010, p 26, 6-1-2013.

For FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility) CDC and SER, requests for a state level review will be scheduled for an administrative review of the record unless a *de novo* hearing is specifically requested. BRB 2013-010, p 27, 6-1-2013.

For FAP only, requests for a state level review will be scheduled for a *de novo* hearing unless an administrative review of the record¹ of the local evidentiary hearing is specifically requested. BRB 2013-010, p 27, 6-1-2013.

If the Michigan Administrative Hearing System holds in favor of the client eligibility will be determined or benefits will be restored as directed by the state level review decision and order. The Michigan Administrative Hearing System has 45 days from the date the Request for Hearing was received to schedule and conduct the state level hearing or administrative review and issue the decision and order. BRB 2013-010, p 27, 6-1-2013.

A Michigan Administrative Hearing System administrative law judge will review the entire record established at the local evidentiary hearing. The administrative law judge will consider the admitted evidence, the digital recording of the local evidentiary hearing, and the applicable law and policy, and will reach an independent decision. BRB 2013-010, p 30, 6-1-2013.

¹ “Administrative review of the record” means a review of the local evidentiary hearing digital recording, the facts of the case, the applicable law, and evidence presented at the local evidentiary hearing. See BRB 2013-010, p 27, 6-1-2013.

The ALJ determines the facts based only on evidence introduced at the state level hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BRB 2013-010, p 30, 6-1-2013.

In the instant matter, Claimant appealed the Department's decision to close her FIP benefits due to reaching the 60 month time limit.

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.

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.

Michigan will provide an exception to the federal 60 month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

- An approved/active ongoing FIP EDG **and**
 - Who was exempt from participation in the Partnership. Accountability. Training. Hope. (PATH) program for: Domestic violence.
 - Age 65 or older.
 - Establishing incapacity.
 - Incapacitated more than 90 days.
 - Care of a spouse with disabilities.
 - Care of a child with disabilities.

The exception continues as long as:

- The individual's ongoing FIP EDG reaches 60 TANF federal months **and** the individual remains one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.

- The individual, at application, is approved as **any** of the above employment deferral reasons. In these instances, the FIP EDG will be state funded.

The exception ends once one of the above individuals **no** longer qualifies for one of the above employment deferral reasons or they **no** longer meet other standard eligibility criteria for FIP. The FIP EDG will close or the application will be denied. See BEM 234, p. 2 (7-1-2013).

This Administrative Law Judge has reviewed the recorded testimony and all evidence admitted at the local hearing. The record shows that Claimant was on active deferral from PATH participation on January 9, 2013. After Claimant's case was initially forwarded to the MRT for review, the Department did consider the additional medical evidence and sent it to the MRT. The MRT later returned with a determination that Claimant was work-ready with limitations. Claimant's deferral was properly discontinued at that point.

The Department's federal time counter shows that Claimant received 130 months of Federal TANF benefits through April, 2009. During the hearing, Claimant did not dispute the Department's monthly FIP calculations, rather Claimant appeared to question the months between May 2004 and April 2009. The record clearly showed that Claimant did not dispute the Department's calculation of her federal FIP benefits during 2004. Moreover, Claimant did not provide any evidence, beyond mere speculation, that the Department's calculation of her TANF benefits was incorrect.

The Administrative Law Judge, based on the recorded testimony, the evidence admitted at the local evidentiary hearing and the above Conclusions of Law, finds that the Department acted in accordance with Department policy when it closed Claimant's FIP case because Claimant reached the 60 month time limit for federal TANF assistance and was no longer entitled to a medical deferral.

DECISION AND ORDER

Accordingly, the Hearing Official's decision is **AFFIRMED**.

IT IS SO ORDERED.

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

Date Signed: October 28, 2013

Date Mailed: October 29, 2013

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.

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

CAP/aca

cc:

