

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 15-012650
Issue No.: 1010; 3000; 5001
Case No.: ██████████
Hearing Date: September 30, 2015
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on September 30, 2015, from Inkster, Michigan. Participants on behalf of Claimant included ██████████, Claimant's living-together-partner (LTP) and an adult member of Claimant's benefit group. Participants on behalf of the Department of Health and Human Services (Department) included ██████ ██████, Hearing Facilitator; ██████ ██████, Assistance Payment Supervisor; ██████████, Eligibility Specialist; and ██████████, Program Manager.

ISSUE

Did the Department properly deny Claimant's April 22, 2015 application for cash assistance under either the Family Independence Program (FIP) or State Disability Assistance (SDA) program?

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 is the recipient of Supplemental Security Income (SSI) benefits.
2. Claimant and the LTP are not married but live together with their nine minor children.
3. On April 22, 2015, Claimant applied for cash assistance for the children (Exhibit A).

4. On April 22, 2015, the Department sent Claimant a Notice of Case Action notifying him that he was denied cash assistance for May 16, 2015 ongoing because the group currently received SSI (Exhibit B).
5. On June 30, 2015, the Department sent Claimant a second Notice of Case Action notifying him that he was denied cash assistance for May 1, 2015 ongoing because the household members had received 60 months or more of benefits.
6. On July 8, 2015, the LTP filed a request for hearing disputing the Department's actions concerning the FIP/SDA application and Food Assistance Program (FAP) case.

CONCLUSIONS OF LAW

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

The LTP requested a hearing concerning the denial of the application for cash assistance and the closure of the FAP case. At the hearing, the LTP testified that the FAP issues had been resolved, and she agreed to dismiss the July 8, 2015 hearing request concerning FAP. The hearing proceeded to address the FIP/SDA matter.

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 Department of Human Services) 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-.3131.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

On April 22, 2015, Claimant submitted an application requesting cash assistance for the nine children in the household, but not for himself and the LTP. Qualifying individuals are eligible for cash assistance under the SDA program if disabled or the caretaker of a disabled person or under the FIP program if caring for a minor child. BEM 214 (April 2014), p. 1; BEM 210 (July 2013), p. 1. When an individual applies for cash assistance, the Department must determine the group composition and consider the client's eligibility for cash assistance in the following order: FIP, then Refugee Cash Assistance (RCA), and then SDA. BEM 209 (July 2013), p. 1.

In this case, the Department testified that, even though Claimant's household had minor children, the group was denied cash assistance under the FIP program because the LTP exceeded the 60-month federal limit for assistance based on cash assistance she had received from the [REDACTED]. Under the federal FIP time limit, individuals are not eligible for continued FIP benefits for their household once they receive a cumulative total of 60 months of federally-funded FIP benefits unless they are eligible for an exception to the federal time limit. BEM 234 (July 2013), p. 2. Although Claimant, as an SSI recipient, was not subject to a FIP time limit count, Claimant's group would be ineligible for FIP if the LTP's federal FIP time limit count exceeded 60 months and no exception to the federal time limit applied to her case. BEM 234, p. 2.

In this case, the Department presented a federal TANF time limit counter (Exhibit C) showing that the LTP had received 60 months of federally-funded cash assistance in Ohio (Exhibit C). Cash assistance (TANF) received in another state counts towards the individual's FIP time limit. BEM 234, p. 4.

The LTP does not dispute that she received more than 60 months of cash assistance from the [REDACTED] but argues that she was eligible for a federal exception to the time limit because she received cash assistance in [REDACTED] for several months under a hardship exception and those months in which she received cash assistance for hardship should not be counted towards her federal time limit. She also challenges the Department's position that she received federally-funded, rather than state-funded, cash assistance from [REDACTED]

Department policy provides that the federally funded countable months for FIP began to accrue on Oct. 1, 1996 and an individual receives a count of one month towards the federal FIP time limit for each month the individual receives federally-funded FIP. BEM 234, pp. 1-2. Counts accrue for every month a family receives FIP, including months that meet hardship criteria. BEM 234, p. 1. Therefore, the months for which the LTP received cash assistance in [REDACTED] under hardship criteria continued to be counted towards her FIP time limit.

Department policy further provides that, once the Department's central office verifies and records the number of months a client received out-of-state assistance, the monthly count is applied to both the client's federal **and** Michigan FIP time limit count. See BEM 234, p. 5. Therefore, the LTP's monthly out-of-state count is applied in Michigan to both her federally-funded time limit count and her Michigan time limit count. Therefore, because the LTP received 71 months of out-of-state cash assistance, she has exceeded the federal time limit count.

The [REDACTED] does not make any distinction in the funding source of cash assistance benefits to its clients. [REDACTED] Rev. Code § 5107.18(H). It is noted that Department policy provides that, in Michigan, cases are federally-funded **unless** the case involves one or more of the following characteristics: (1) for months after October 1, 2006, the FIP group consists of a two parent household where **neither** parent receives SSI (if a parent in a two-parent household receives SSI, the group is considered a sing-parent household and is

federally funded); (2) for months after October 1, 2006, the FIP group has a parent deferred from PATH due to verified disability or long-term incapacity lasting longer than 90 days (or is establishing incapacity); (3) court-ordered, unrelated caregivers receive FIP for a child placed in the home by Children's Protective Services; (4) for months before October 1, 2011, the only dependent child in the FIP group was ■■■ years old and attending school full-time, (5) the FIP group has no dependent children (i.e., when the parent receives FIP for an out-of-home foster care placement and there is a plan for the child to return to the parent's home), and (6) the FIP group includes an adult who has accumulated more than 60 months on the federal time limit counter but meet the federal time limit exception criteria. In this case, none of the criteria (1) through (5) apply to the LTP's case and, as discussed below, criteria (6), the federal exception does not apply. It follows that the LTP received federally-funded cash assistance.

Under the evidence presented, the 71 months of cash assistance received by the LTP were properly applied to her federal time count. Department policy provides for an exception to the federal time limit count for individuals who were as of January 9, 2013 (i) approved for FIP benefits **and** (ii) exempt from participation in the PATH program for reason of domestic violence, establishing incapacity, incapacitated more than 90 days, aged 65 or older, or caring for a spouse or child with disabilities. BEM 234, p. 2. The evidence in this case (Exhibit C, Exhibit F) does not clearly establish that the LTP received cash assistance in ■■■ in January 2013. But, even if she had, there was no evidence presented at the hearing that she met any of the criteria making her eligible for an exemption from the PATH program. In particular, it is noted that Claimant is not the LTP's spouse and therefore the LTP could not establish that she was caring for a disabled spouse. Therefore, Claimant was not eligible for an exception from the federal FIP time limit.

Because (i) the LTP was not eligible for a federal exception to the federal time limit, (ii) she received in excess of 60 months of cash assistance from the State of Ohio, and (iii) she lived in the household with Claimant, the Department acted in accordance with Department policy when it denied Claimant's April 22, 2015 application for FIP cash assistance on the basis that the LTP exceeded the FIP time limit.

The LTP also contends that she is eligible for cash assistance under the SDA program as the caregiver of Claimant, a disabled individual receiving SSI. Cash assistance is available under the SDA program for an individual caring for a disabled individual if assistance by a caretaker is medically necessary for at least 90 days and the caretaker and the disabled person live together. BEM 261 (July 2014), p. 1; BEM 261 (July 2014), pp. 1, 4. The disabled person does not have to be related to the caretaker or receive SDA himself. BEM 261, p. 4.

In order for SDA assistance to be available, an SDA eligibility determination group (EDG) must exist based on the rules in BEM 214, SDA Group Composition. BEM 209, p. 4. Under BEM 214 (April 2014), p. 1, a SDA EDG consists of either a single adult or an adult and spouse living together. In this case, the LTP did not seek cash assistance for herself in the April 22, 2015 application. Because the LTP was not identified as an applicant for

cash assistance, she could not be evaluated as an SDA group member. As such, the Department acted in accordance with Department policy when it did not process the application for the LTP's eligibility for cash assistance under the SDA program.

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 when it denied Claimant's application for cash assistance.

DECISION AND ORDER

Claimant's request for hearing concerning FAP is **DISMISSED**.

The Department's cash assistance decision is **AFFIRMED**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/16/2015**

Date Mailed: **10/16/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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;

