

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-022279
Issue No.: 1000
Agency Case No.: [REDACTED]
Hearing Date: January 19, 2016
County: KENT

ADMINISTRATIVE LAW JUDGE: Kevin Scully

**ORDER OF DISMISSAL
FOR LACK OF JURISDICTION**

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, telephone hearing was held on January 19, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] [REDACTED] [REDACTED] represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly determine the 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. The Claimant is an ongoing Family Independence Program (FIP) recipient.
2. On March 17, 2015, the Department sent the Claimant forms necessary to obtain a finding that she is unable to work.
3. On March 27, 2015, the Claimant requested that she be removed from her Family Independence Program (FIP) benefit group.
4. On March 27, 2015, the Department notified the Claimant that she was approved for ongoing Family Independence Program (FIP) benefits as a group of one, and that her monthly grant would be reduced to \$ [REDACTED] effective May 1, 2015.

5. On November 19, 2015, the Department received the Claimant's request for a hearing protesting the amount of her monthly Family Independence Program (FIP) benefits.

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 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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

The Claimant was an ongoing FIP recipient on March 27, 2015, when she requested that the Department remove her from her FIP benefit group. This resulted in a reduction of her monthly FIP grant to \$■■■■ as a group of one from \$■■■■ as a group of two. The Department sent the Claimant notice of her benefit reduction on March 27, 2015.

The Department supported its assertion that the Claimant voluntarily requested removal from her FIP benefit group with a copy of notes from the Claimant's file. The Claimant disputes that she requested removal from the FIP benefit group.

The Department provided a note signed by the Claimant on September 22, 2015, indicating that she will no longer like to be on cash assistance.

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).

This Administrative Law Judge finds that the Claimant requested removal from her FIP benefit group and the Department did remove her from the benefit group effective May 1, 2015.

If the Claimant did not intend to remove herself from the FIP group, the evidence on the record supports a finding that she did not protest her benefit reduction until November 19, 2015, when she requested a hearing. This request for a hearing is not timely with respect to the reduction of her FIP benefits because it was received by the Department more than 90 days after the Department sent it notice of case action.

The Claimant argued that the Department failed to properly instruct her of all the options she had available to her and how she could have made herself eligible for additional benefits.

This Administrative Law Judge finds that the Claimant was aware, or should have been aware of the consequences of choosing to remove herself from the FIP benefit group. The Claimant had notified the Department that she was unable to participate in the required self-improvement program required of FIP benefit recipients, and failed to establish herself as a disabled FIP recipient. Therefore, the Department was acting in accordance with policy when it determined the Claimant's eligibility for FIP benefits based on the circumstances she had reported to the Department.

In conclusion, since the Claimant did not request a hearing less than 90 days from the Department's notice that her FIP benefits would be reduced, her request for a hearing

protesting the reduction of FIP benefits is untimely and must be dismissed. In the alternative, if the Claimant's hearing request is found to be timely, this Administrative Law Judge finds that the Department properly determined her eligibility as a group of one following her voluntary withdrawal from her FIP group.

Claimant's hearing request is therefore **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/20/2016**

KS/nr

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System.

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