

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2010-25172

Issue No.: 1006/3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 12, 2010

Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Warren, Michigan on Monday, April 12, 2010. The Claimant appeared along with [REDACTED] and [REDACTED], and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUES

1. Whether the Department properly reduced the Claimant's FAP case?
2. Whether the Department properly terminated the Claimant's FIP case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FIP/FAP recipient.

2. On or about October 15, 2009, the Claimant submitted a statement from her physician confirming her pregnancy and bicornuate uterus and recurrent spontaneous abortion (“SAB”). (Exhibit 5)
3. On November 6, 2009, the Claimant, who was homeless, submitted an application for State Emergency Relief (“SER”) requesting relocation expenses. (Exhibit 1)
4. On this same date, the Department requested that the Claimant have a Medical Needs form completed by her physician due to her high risk pregnancy.
5. On the SER application, the Claimant indicated she was the only member of the household. (Exhibit 1)
6. As a result of the application, the Department recalculated the Claimant’s FAP benefits by removing the Claimant’s shelter obligation and reducing the group size to one.
7. Effective December 2009, the Claimant’s benefits were reduced from \$367.00 to 147.00. (Exhibit 3)
8. The Claimant never received notification of the case action.
9. On February 12, 2010, the Department pended the Claimant’s FIP benefits for closure because it did not receive a completed Medical Needs form. (Exhibit 4)
10. On February 12, 2010, the Department received the Claimant’s written request for hearing. (Exhibit 2)
11. The Claimant’s FIP benefits terminated effective March 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp (“FS”) program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (“CFR”). The Department of

Human Services (“DHS”), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Program Glossary (“BPG”).

The Family Independence Program (“FIP”) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq*. The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (“ADC”) program effective October 1, 1996. Department policies are found in the BAM, BEM, and BPG.

Changes are acted upon within 10 days after the Department is aware of the change. BAM 220 FAP budgets are completed when the Department is made aware of or the client reports a change that will affect eligibility or benefit level. BEM 556 Shelter expense is an allowable expense and includes rent payments. BEM 554 A reduction in FAP benefits is treated as a negative action requiring notification to the Claimant. BAM 220

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A Deferrals from JET participation are temporary. BEM 230A Short-term incapacity expected to last less than three months are deferred for up to three months. BEM 230A The local office has the discretion to defer an individual from JET participation who has pregnancy complications expecting to last longer than 3 months. PEM 230A

FAP benefits

In this case, the Claimant previously received FAP benefits based on a group size of 2. The FAP budget also allowed for a shelter expense deduction. In November 2006, the Claimant submitted an SER application seeking relocation expenses because she had become homeless. On the application, the Claimant was asked to list all members of the household. The Claimant listed herself only. As a result, the Department recalculated the Claimant's FAP budget by removing the shelter obligation and reducing her group size to one. Based on the foregoing, the Claimant's FAP benefits were reduced. The Department sent a timely Notice of Case Action to the Claimant however, for some unknown reason, the Notice was returned as undeliverable. In February of 2006, the Claimant presented to the office and informed the Department that she and her boyfriend had never separated. Ultimately, under these facts, the Department established it acted in accordance with Department policy when it reduced the Claimant's FAP benefits based on information provided by the Claimant on her SER application. Accordingly, the Department's FAP determination is AFFIRMED.

FIP benefits

During the hearing, the Claimant brought up, and the Department agreed, that due to her homelessness, returned mail, and the Department not receiving the Claimant's Medical Needs form that the Claimant's cash assistance was terminated effective March 2010. The Department received a statement from her physician confirming her pregnancy and bicornuate uterus and recurrent spontaneous abortion ("SAB"). The Department declined to use its discretion to defer the case and requested a completed Medical Needs form. The Claimant testified credibly that she physically dropped off the completed form. The Claimant was unaware, until the FIP closure, that the Department had not received the requested form. Ultimately, under these facts,

the Department agreed to reinstate the Claimant's FIP case once the completed form is submitted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy when it reduced the Claimant's FAP benefits. It is further held, that the Claimant's FIP benefits were improperly terminated.

Accordingly, it is ORDERED:

1. The Department's FAP determination is AFFIRMED.
2. The Department shall reinstate the Claimant's FIP benefits, as agreed, from the date of closure, provided that the Claimant submits a completed Medical Needs form.
3. The Department shall supplement for any lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/20/2010

Date Mailed: 4/20/2010

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

CMM/jlg

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