

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-43060
Issue No.: 1005, 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 12, 2010
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and on Claimant's request for a hearing. After due notice, a telephone hearing was held on August 12, 2010. Claimant appeared and testified. [REDACTED] appeared and interpreted for Claimant. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether Claimant is entitled to Family Independence Program (FIP) benefits from April 1, 2010-May 15, 2010?
2. Whether Claimant is entitled to Food Assistance Program (FAP) benefits for the month of April, 2010?

FINDINGS OF FACT

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

1. On March 8, 2010, Claimant applied for FIP and FAP benefits with the State of Michigan.
2. On March 13, 2010, Claimant's FAP benefits were denied for the reason that he failed to provide verification.
3. Claimant's FIP deadline for verifying his assets to DHS was March 23, 2010.
4. On March 22, 2010, Claimant mailed verification of two bank accounts to DHS.

5. Claimant's bank statements contained checking and savings account information for November 10-December 11, 2009.
6. Claimant's bank statement showed that he had a checking account with a balance of \$14.42, and a savings account balance of \$10.
7. On March 25, 2010, DHS received Claimant's bank statements.
8. On March 23, 2010, DHS rejected the bank statements as not containing current information and denied Claimant's request for FIP benefits.
9. In March or April, 2010, Claimant reapplied for FIP and FAP benefits.
10. On or about April 20, 2010, Claimant submitted a checking account statement dated April 13, 2010, showing a balance of \$14.42.
11. On or about April 20, 2010, Claimant had a balance of \$10 in his savings account.
12. On May 1, 2010, Claimant received FAP benefits from the State of Michigan.
13. On May 16, 2010 Claimant received FIP benefits from the State of Michigan.
14. On June 29, 2010 Claimant filed a notice of hearing request.

CONCLUSIONS OF LAW

FIP was established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Section 601 *et seq.* DHS administers FIP pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3101-3131. DHS policies are found online in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Tables Manual (BRM). www.michigan.gov/dhs-manuals.

FAP was established by the United States Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.*, and MACR 400.3001-3015. Department policies are found online in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Tables Manual (BRM). *Id.*

In this case, Claimant is requesting the following relief:

1. FIP benefits for six weeks, from April 1-May 15, 2010, and
2. FAP benefits for April, 2010.

First, here is my analysis of the FIP question. DHS argues that Claimant missed the March 23, 2010, deadline for verification of his bank accounts and his application was denied. The facts in this case are that Claimant mailed the verification to DHS on March 22, but it was not time-stamped until March 25, two days after the deadline.

The manual section that governs this situation is BAM 105, "Rights and Responsibilities." It states:

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See Refusal to Cooperate Penalties in this section.

...

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Specific penalties can be found in the applicable BEM and BAM items. BAM 105, p. 5. (Underlining in original.)

In the present case, I conclude that Claimant did not refuse to cooperate when he mailed the verifications to DHS the day before they were due. I cannot see this as a refusal to cooperate, and I regard his action as substantial cooperation with DHS in providing his verification by the March 23 deadline. I note also that, as Claimant applied on March 8, 2010, his application was only fifteen days old, and there is no policy requiring that applications be processed in fifteen days. BAM 115 states that FIP approval should be certified within forty-five days of the application. I conclude that DHS must consider Claimant's agreement to cooperate as a higher priority than a specific deadline set well within the timelines for processing cases. BAM 115, p. 11.

Looking next at the verification itself, which was a four-month-old bank statement, based on the testimony and evidence in the record, I conclude that Claimant was willing to cooperate and provide up-to-date verification. On April 20, 2010, he provided DHS with a bank statement showing his current checking account balance, which is in evidence and which does show a \$14.42 balance. And, at the hearing he testified that the balances in both accounts remained the same from November 2009 to the present, \$14.42 in checking and \$10 in savings.

Claimant also testified to his continuing cooperation to provide savings account verification, even on the day of the hearing itself. I decide and conclude again that these facts do not establish a refusal to cooperate, but rather that Claimant had difficulty understanding DHS requirements and getting the right documents to DHS. I conclude that, when Claimant submitted the checking but not the savings account documents in April, he demonstrated cooperation and should have been awarded FIP benefits retroactive to his earlier application date of March 8, 2010.

BAM 115 also states that completed applications should result in an award of benefits in the pay period in which the application becomes thirty days old. BAM 115, p. 17. Applying BAM 115 in this matter, Claimant's completed application must be granted for the pay period that includes April 8, 2010, the date when the application, *not the completed application*, became thirty days old. I conclude, therefore, that Claimant is eligible for FIP benefits for April 1- May 15, 2010. BAM 115, p. 17.

I now turn to the question of Claimant's FAP benefits. Claimant seeks FAP benefits for April, 2010. DHS here argues that Claimant was receiving FAP benefits from Massachusetts from March 4-April 3, 2010, and BEM 222 prohibits a Claimant from receiving benefits from two states at the same time.

However, DHS denied FAP benefits on March 13, 2010, five days after the application date, for the stated reason that Claimant failed to provide verification. I conclude that this is the real reason for the denial and not the reason stated in the Hearing Summary and at the hearing. I find this violates the requirements of BAM 115 which provides thirty days as the "standard of promptness" for approval or denial of FAP applications. DHS did not allow sufficient reasonable time, within its own timeframe, for Claimant to cooperate with regard to FAP verification.

I conclude Claimant has cooperated and is eligible for FAP benefits effective April 1, 2010, for the month of April 2010.

I will examine DHS' argument, nonetheless, that Claimant would have received concurrent benefits in Massachusetts and Michigan for three days, April 1-3, 2010, if he

received Michigan FAP benefits in April, 2010. I do this in the event that this issue should turn out to be relevant at some later point in this litigation.

I do not find persuasive DHS' argument that Claimant would have received benefits from two states at the same time.

BEM 222, effective January 1, 2010, states as follows:

DEPARTMENT POLICY

All Programs

Concurrent receipt of benefits means assistance received from **multiple** programs to cover a person's needs for the same time period. Certain restrictions apply, as specified in this item.

Benefit duplication means assistance received from the **same** (or same **type** of) program to cover a person's needs for the same month.

...

FAP Benefits

FAP Only

A person **cannot** be a member of more than one FAP Certified Group (CG) in any month.

A person **cannot** receive FAP in more than one state for any month.

...

VERIFICATION REQUIREMENTS

FIP, RAPC, SDA and FAP

Make an out-of-state inquiry when an applicant arrived from another state within 30 days before application. Use an (sic) DHS-3782, Out of State Inquiry. BEM 222, pp. 1-3. (Bold print in original.)

BEM 222 contains three pertinent phrases: “for the same *month*,” “in any *month*,” and “for any *month*.” I conclude that Claimant received Massachusetts benefits for the *month of March*. The fact that another state uses an administratively convenient date which is not the first of the month does not change the fact that the benefits were for that month. I consider that Claimant’s Massachusetts benefits in March were intended to be for the calendar month of March, and the administrative convenience of one state should not be used to deprive benefits to a person in another state who is otherwise eligible.

DHS’ assertion of BEM 222 also calls to my attention the question as to when Claimant came to Michigan. The record does not indicate when Claimant arrived in Michigan. If he did not arrive within thirty days before his application, there should have been no Out-of-State Inquiry in the first instance. *Id.*

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, holds that Claimant is entitled to FIP benefits for April 1-May 15, 2010, and FAP benefits for April 2010. DHS’ actions are REVERSED. The Department is Ordered to initiate a redetermination of Claimant’s eligibility for FIP and FAP benefits in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 16, 2010

Date Mailed: August 16, 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.

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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.

JL/p

cc:

