

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: 201047644
Issue No: 1022
Hearing Date: April 12, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on April 12, 2011 at the [REDACTED]

ISSUES

1. Did the DHS properly follow its verification policy and procedure in denying claimant's FIP application?
2. Did claimant meet his burden of proof to establish eligibility for FIP?

FINDINGS OF FACT

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

1. On March 6, 2010, claimant applied for FAP and FIP on behalf of himself and his daughter. There is no issue herein regarding FAP.
2. Claimant submitted a note from the mother indicating that as of March 1, 2010, she permitted the father to be eligible for FIP benefits and her case closed. The note included case numbers, case worker names, telephone numbers including a telephone number for herself. Exhibit 2.
3. On April 19, 2010 the DHS had a phone conversation at claimant's house with the mother who stated that she did not sign the note.
4. On July 20, 2010, the DHS issued a Notice of Case Action denying claimant the cash program on the grounds that claimant was not a parent/caretaker relative of a dependent child.

5. On June 9, 2010, claimant filed a hearing request. On September 30, 2010, Judge Sundquist held an evidentiary telephone hearing in this matter and issued an "Order for FIP—MA Reprocessing." Judge Sundquist indicated the department was responsible to "...Provide for the appearance of the mother of the claimant [dependent child], in question, at the next scheduled hearing..." Judge Sundquist closed the file, did not issue a subpoena, did not tag the file for a new hearing. It is unclear what the Order for FIP/MA Reprocessing intended.
6. Claimant subsequently called and inquired why his case was not rescheduled. Claimant was told at the telephone hearing he could not have a continuance in person. Claimant requested an in-person hearing.
7. The undersigned Administrative Law Judge was assigned to this case as an in-person hearing. Judge Sundquist does not do in-person hearings.
8. At the administrative hearing, the undersigned Administrative Law Judge instructed the parties that the hearing was either to be rescheduled for a telephone continuance with Judge Sundquist or in the alternative, the undersigned Administrative Law Judge would hold a *de novo* in-person hearing on the facts. The parties agreed to go forward with the *de novo* hearing.
9. The department never requested a subpoena for the mother. The department indicated it had requested the mother appear at the hearing. The mother of the dependent child did not appear at the administrative hearing. The DHS was not familiar with BEM 600.

CONCLUSIONS OF LAW

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 (DHS or department) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

ISSUE 1

General verification policy and procedure is found in numerous items, including:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. BAM, Item 105, p. 1.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. BAM, Item 105, p. 5.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. BAM, Item 105, p. 5.

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. BAM, Item 105, p. 5.

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. BAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. BAM, Item 130, p. 4.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. BEM items specify which factors and under what circumstances verification is required.
- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

ELIGIBILITY DECISIONS

Denials

All Programs

If the group is ineligible **or** refuses to cooperate in the application process, send a denial notice within the standard of promptness. BAM, Item 115, p. 15.

General policy on hearings which includes any requests for witnesses and/or subpoenas is found primarily in BEM Item 600. General policy with regards to FIP group composition is found primarily in BEM Item 210.

In this case, claimant presented credible and substantial evidence of having custody of his daughter. The department initially found it to be credible. However, upon subsequent inquiry with the purported mother, the department determined it was not credible. The department's response at that point was to issue a negative action notice denying eligibility.

Under general verification policy and procedure cited above, the department was required to issue a Verification Checklist to claimant allowing him to verify custody. The department should have given claimant an opportunity to submit any related papers that would establish custody if the department found the verifications submitted by claimant to be questionable. The department did not seem to be aware of this policy. Nor was the department aware of policy to request a witness to appear at an administrative hearing such as subpoena.

Claimant did not have a right to benefits; claimant had a right to submit further verification to clarify inconsistent information pursuant to BAM Item 110.

ISSUE 2

At the administrative hearing, claimant had in his possession the types of documents that would have been secured had the department requested further clarification/verification. Claimant had in his possession a birth certificate, custody papers, and a very pleasant and credible witness who testified about the arrangements at this time at issue. Under BEM Item 210, the department is required to make a determination of the primary caretaker based upon the number of days the child spends with each parent and the sleeping arrangements.

After careful review of the substantial and credible evidence of the whole record, this Administrative Law Judge finds that the evidence presented by claimant does not meet the verification requirements found in BEM Item 210. Specifically, the custody papers claimant presented showed that the mother was the primary caretaker in this case based upon the total number of nights per year she was allowed to have the child. Other evidence in this case did not show that claimant could meet the definition of primary caretaker under BEM Item 210 despite his obvious involvement and love for this child. Based on these facts, this Administrative Law Judge must partially uphold the department on the second issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

ISSUE 1

The DHS failed to follow its policy and procedure with regards to verification when it denied claimant's March 6, 2010 FIP application.

ISSUE 2

The verification claimant submitted at the administrative hearing fails to meet the eligibility standards for FIP eligibility.

Thus, the department's denial of claimant's FIP is hereby AFFIRMED.

/s/
Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 22, 2011

Date Mailed: April 22, 2011

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JGS/db

cc:

