

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.: 2010-51330
Issue No.: 1022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 2, 2010
DHS County: Macomb (36)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on December 2, 2010. Claimant appeared and testified. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible to receive Family Independence Program (FIP) Direct Support Services (DSS) benefits from DHS?

FINDINGS OF FACT

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

1. On or about August 5, 2010, Claimant applied for DSS benefits with DHS.
2. Claimant requested assistance with car repair expenses.
3. Claimant receives Retirement, Survivors and Disability Insurance (RSDI) disability payments from the U.S. Social Security Administration.
4. Claimant attends [REDACTED].
5. Claimant has no dependent children and is not a recipient of Family Independence Program, Child Development and Care, Medical Assistance or Food Assistance Program benefits from DHS.

6. On August 5, 2010, DHS denied DSS benefits to Claimant, stating that there was “No entitlement. Car repair was denied because client does not meet definition of family.”
7. On August 11, 2010, Claimant filed a request for hearing notice with DHS.

CONCLUSIONS OF LAW

FIP was established pursuant to the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP program pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-400.3131. DHS’ policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute the legal authority which DHS must follow. It is to the manuals that I look in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

DHS has cited BEM 232, “Direct Support Services,” as the relevant manual Item in this case. I agree with DHS and will examine this Item to determine DHS policy in this matter.

BEM 232, by way of an Overview statement on page 1, identifies who can receive DSS:

DIRECT SUPPORT SERVICES

DEPARTMENT POLICY

FIP, CDC, MA, FAP Family, FAP Non-Family

Overview

Funds for direct support services for FIP, CDC, MA and FAP Families, are allocated to local offices annually. BEM 232, p. 1.


Both the title and the opening sentence of the Overview indicate to me that DSS benefits are available only to people in one of the four programs identified in the title and the Overview opening sentence. I have found as fact above that Claimant was not participating in any of these four programs at the time of her DSS application. Therefore, I find and conclude that DHS was correct in its determination that Claimant is not eligible for DSS benefits.

Having considered all of the evidence and testimony in this case as a whole, I find and determine that DHS is AFFIRMED in its denial of DSS benefits to Claimant. DHS need take no further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, concludes and determines that DHS is AFFIRMED in its denial of DSS benefits to Claimant. DHS need take no further action in this case.

IT IS SO ORDERED.



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

Date Signed: December 6, 2010

Date Mailed: December 7, 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 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.

JL/pf

cc:

