

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

IN THE MATTER OF:



Reg. No: 201020624
Issue No: 3002; 3003;1002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 24, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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, a hearing was held on June 24, 2010.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

Did the Department correctly refuse to process claimant's FIP applications?

FINDINGS OF FACT

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

- (1) Claimant was a FAP recipient in Wayne County.
- (2) Claimant was given an indeterminate FAP allocation.
- (3) The Department failed to submit evidence of claimant's FAP budget or FAP allocation at the hearing.

- (4) Claimant has submitted at least 3 FIP applications to the Department during the time period in question: one on October 27, 2009; a second on January 6, 2010; and a third on June 15, 2010.
- (5) None of these applications have been processed.
- (6) The Department received these applications.
- (7) Claimant was handed back one of these applications prior to the hearing and was notified that it would not be processed because claimant was not income eligible for the FIP program.
- (8) Claimant was also told that the application was being handed back because it was not the job of the caseworker to process FIP applications.
- (9) At no point did the caseworker in question attempt to forward claimant's FIP application to the appropriate representatives.
- (10) Claimant filed for hearing on January 22, 2010, alleging that DHS incorrectly computed her FAP budget.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) 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 Reference Manual (BRM).

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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$132 is allowed for certain households. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

In this case, the Administrative Law Judge was unable to review the claimant's FAP budget because no budget was ever submitted. The Department did not submit any evidence that shows what the claimant is currently receiving in FAP benefits. The Department did submit some evidence of income; however, after reviewing the evidence of income, the undersigned is unable to make a determination as to whether the claimant is receiving the correct amount of benefits because the Department has

failed to submit a complete evidence record. Therefore, the undersigned will assume that the claimant's current FAP budget is incorrect and must be recalculated individually for each month starting with the date of negative action, January 22, 2010.

With regard's to the claimant's FIP situation, the Administrative Law Judge is unable to reconcile policy with the events of this case.

The claimant has submitted clear and convincing evidence that she has submitted at least three applications for cash assistance since October 27, 2009. Two other applications were submitted on January 6, 2010 and June 15, 2010. In December 2009, claimant submitted a letter to the Department questioning the status of her October 27, 2009 application.

As of the date of the hearing, Department evidence shows that not one of these applications had been processed, though the evidence shows that the applications and requests for information were received.

More egregiously, claimant testified credibly that a FIP application, dated as received on June 15, 2010, was handed back to the claimant prior to the hearing; claimant's caseworker, by her own testimony, admitted to refusing to process the applications because claimant was most likely ineligible for FIP assistance; the caseworker also testified that she did not believe it was her job to process a FIP application. At no point did the caseworker give the application to the appropriate worker or attempt to assist the claimant in any way.

Claimant had turned in the most recent FIP application at the front desk; this was forwarded to claimant's caseworker, who then, in turn, gave the application back to the claimant with instructions to turn it in a second time at the front desk. The undersigned is unable to rationalize a reason for these instructions.

Given the caseworker's behavior during and immediately prior to the hearing, which involved actions that could be read as an attempt to deny claimant of her right to a fair hearing (claimant was told that there was no need for a hearing and was sent home; the caseworker then told SOAHR staff that the claimant had left of her own free will, before changing the story and telling the Administrative Law Judge that the late hour had made it necessary for an adjournment—which the caseworker had taken it upon herself to schedule, without first consulting SOAHR), the undersigned finds claimant's testimony entirely credible and, frankly, appalling.

BAM 105, 110 and 115 all guarantee that an application for assistance, no matter how unlikely to be granted, will be processed. There are no exceptions to these policies, absent a withdrawn application. Furthermore, these policies also make very clear that an application turned in anywhere to the Department shall be processed. Finally, these policies state explicitly that a caseworker shall assist their clients when they apply for assistance. These policies are based directly on both federal and state law.

The Administrative Law Judge can find no logical reason, much less one supported by policy or law, for the actions in this case. The caseworker, and by extension, the Department, has violated policies explicitly put in to place to protect the rights of applicants and clients seeking assistance. There is no justification for these actions; the positions advocated by the caseworker in question are completely without merit and against policy, as well as state and federal law.

Regardless of the merits of claimant's FIP application, the claimant has a right to have these applications processed; these applications, by the caseworker's own testimony, not only were not processed, but had been refused to be processed, which is

clear, unjustifiable, error. The correct action was to process every submitted FIP application, and a determination made as to claimant's FIP eligibility. Should claimant have been ineligible for FIP, a denial should have been issued, and claimant should have been given a chance to appeal that denial, regardless of her chance of success. Refusing to process an application was not, nor ever will be, an option.

Therefore, each of claimant's FIP applications, starting with the application of October 27, 2009, must be processed. These applications must be given all due consideration, and should a denial be warranted, issued a proper negative case action notice. Policy requires nothing less.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has submitted insufficient evidence with which to determine FAP eligibility. The Department has also incorrectly failed to process claimant's FIP applications.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to recalculate claimant's monthly FAP budget retroactively to the date of January 22, 2010. The Department is FURTHER ORDERED to process every FIP application submitted by the claimant since October 27, 2009.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/18/10

Date Mailed: 08/18/10

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.

RJC/dj

cc:

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