

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.: 2010-32059
Issue No.: 3012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 26, 2010
Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was conducted from Detroit, Michigan on May 26, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether Claimant should receive FAP benefits beginning 1/2010 based on Claimant's income and expenses or as calculated by MICAP policy.

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 an ongoing Food Assistance Program (FAP) benefit recipient receiving \$200/month in Food Assistance through 12/2009.
2. Claimant submitted all required documents to DHS in 12/2009 for DHS to redetermine Claimant's FAP benefits beginning with the FAP benefit period beginning 1/1/10.
3. DHS failed to timely recertify Claimant's FAP benefits before the end of the FAP certification period ending 12/31/09. Exhibit 2.
4. Claimant attempted to contact DHS regarding the lack of FAP benefits in 1/2010 but DHS was not able to respond to Claimant's inquiries.
5. In response to the lack of response to Claimant's inquiries, Claimant applied for FAP benefits through the Michigan Combined Application Project (MiCAP) in 1/2010 and was approved for \$84/month in FAP benefits.
6. Claimant submitted a hearing request on 1/13/10 disputing the reduction in FAP benefits from \$200/month to \$84/month.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (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 Reference Tables Manual (RFT).

DHS must redetermine benefits to reevaluate a client's eligibility for the benefits program. In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. BAM 210 at 9. It is not disputed that Claimant submitted all necessary documents required for Claimant to receive uninterrupted FAP benefits.

The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. *Id* at 12. It is not disputed that DHS failed to process Claimant's redetermination by the end of the FAP benefit period to ensure uninterrupted benefits.

In 1/2010 Claimant inquired about the status of the FAP benefits but did not receive a response. Claimant understandably looked for a new avenue to begin receiving FAP benefits. Claimant responded by applying for FAP benefits through MiCAP.

BEM 618 describes the MiCAP policy. MiCAP is a FAP benefit program that attempts to simplify the reporting requirements for SSI recipients. Though still a DHS program, MiCAP calculates FAP benefits solely based on the recipient's shelter and utility expenses. If the expenses meet or exceed \$600 then the recipient is eligible for \$129/month in FAP benefits. If the expenses are below \$600, then the client is issued \$84/month in FAP benefits. This method is very different from the traditional FAP benefits calculation found in BEM 556.

Claimant contends that she is entitled to calculation of FAP benefits based on the policies of BEM 556 because it was DHS error that ended FAP benefit eligibility and Claimant should not be penalized for the DHS error. Claimant's application through MiCAP offset some of the error by DHS but does not make Claimant whole due to the reduction in FAP benefits.

DHS contends that they attempted to reinstate Claimant's FAP benefits in late 1/2010 but could not due to Claimant's already processed 1/2010 FAP eligibility through MiCAP. DHS further contends that Claimant is not owed a FAP benefit supplement because Claimant willingly applied for FAP benefits through MiCAP and was approved for all of 1/2010 which would give Claimant uninterrupted FAP benefits.

DHS must request closure of MiCAP FAP benefits for a client if the client submits an application for FAP benefits at the local office. BEM 618 at 3. In the present case, Claimant did not submit an application for benefits after MiCAP eligibility; however, Claimant's circumstances justify similar treatment.

As previously stated, the Claimant's FAP benefits closed solely due to error by DHS. DHS compounded the error by failing to respond to Claimant's inquiries about the FAP benefits. It would be patently unfair to commit Claimant to a lower FAP benefit amount merely for seeking FAP benefits from a responsive source. It is found that Claimant is entitled to reinstatement of FAP benefits through the local DHS office and a supplement of any FAP benefits, if any, beginning with 1/2010 based on the difference in FAP benefits as calculated by the policy of BEM 556 and those received through the MiCAP program.

It should be noted that after calculating Claimant's FAP benefits based on the policy of BEM 556, Claimant could be eligible for fewer FAP benefits than the amounts issued by

MiCAP. If such a scenario occurs, Claimant will have to reapply for MiCAP eligibility to receive FAP benefits at the MiCAP issuance rate.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that failed to timely recertify Claimant's FAP benefits. It is ordered that:

- DHS initiate closure of Claimant's MiCAP eligibility
- DHS recalculate Claimant's FAP benefits beginning 1/2010 based on the policy of BEM 556
- DHS supplement Claimant for the difference in FAP benefits between the newly calculated BEM 556 amount and the previously received \$84/month received through MiCAP.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/08/2010

Date Mailed: 06/08/2010

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.

2010-32059/CG

CG/cjp

cc:

