

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.: 2010-49799
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 20, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 held on September 20, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the department.

ISSUE

1. Whether the Department is required to supplement the Claimant's FAP benefits in June 2010 after a change reported May 26, 2010?
2. Whether the Department properly denied the Claimant's application for Direct Support Services?

FINDINGS OF FACT

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

1. The claimant advised the Department of a change in her shelter obligation on May 26, 2010 and received a FAP benefit increase on July 20, 2010.
2. The Claimant requested a hearing for retro active FAP benefits to the date of reporting the change.
3. The Claimant's FAP allotment increased effective July, 2010.
4. The department had ten days to process the change, or until June 3, 2010. The Department did not process the change until June 29, 2010.

5. The Claimant applied for Direct Support Services (DSS) on June 4, 2010 and was denied services on June 10, 2010. The Notice of Denial indicated that the claimant did not demonstrate need and did not provide proof of current auto insurance. Exhibit 1 and 2.
6. The Claimant submitted an expired proof of insurance with her DSS application. Exhibit 1.
7. The Claimant submitted a valid proof of insurance prior to the denial of the application.
8. The Claimant recently reapplied for DSS for auto repair.
9. The Notice of Case action advised as the reason the Claimant's application was denied was because she provided the department with an expired proof of insurance and had not demonstrated need. Exhibit 2
10. The Department also believed that the DSS program was closed at the time of the Claimant's application because the County ran out of DSS funds. Based on the Documentation provided it does not appear the program was closed. Exhibits 4 and 5
11. The Department sent an Application Notice dated August 4, 2010 indicating that her application had been denied because she did not have an open case with the Department. Exhibit 2
12. At the time of the Application Notice the Claimant had an open FAP case.
13. The Claimant requested a hearing on July 12, 2010 protesting the denial of her DSS application and requesting retroactive FAP benefits. The application was received by the department on July 22, 2010.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

In the present case the Claimant seeks to receive a supplement for FAP benefits for the month of June, 2010. It is undisputed that the Claimant reported a change in FAP benefits on May 26, 2010 advising the department of a change in her shelter expense. The Department must act on a change within 10 days after the department is made aware of the change. BAM 220.

In this case the Department had until June 5, 2010 to process the change but did not do so until June 29, 2010. The FAP increase went into effect in July because this was the month after the change was processed. The only way the Claimant would have received benefits for June would have been if the Department processed the change before the end of May which it did not do and is not required to do. Although the change was not processed within the 10 day time frame, the result is still the same even though the change was not processed until the end of the month. July would still be the month when the Claimant's FAP benefit increase would go into effect.

BAM 220 provides:

Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. Id. At page 5.

In this case the change in FAP benefits would occur in the month following 10 days after the change was reported. July's benefits would be the month effected because the 10th day after the change is reported, June 5, 2010, is after the June allotment and requires the change to occur in the next benefit period which would be July. BAM 220, page 6.

Direct Support Services

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal or improper. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

The relevant policy which governs Direct Support Service assistance can be found in BEM 232:

Funds for direct support services for FIP, CDC, MA, and FAP Families, are allocated to local offices annually. Local

offices must prioritize the services provided to assure expenditures do not exceed their allocation. BEM 232, Page 1.

There is no entitlement for DSS (Direct Support Services). The decision to authorize DSS is within the discretion of the DHS or the MWA. Id.

Vehicle repairs may be authorized up to \$900 if certain conditions are met.

Before authorizing a major repair, ensure that all of the following conditions are met:

An eligible group member owns the vehicle.

The client requesting the service has a valid driver's license. The repair is expected to make the vehicle safe and roadworthy including new tires, headlamps, batteries, etc.

A vehicle may be repaired for a client who is not currently employed if the client needs a vehicle to accept a verified job offer; **or** needs a vehicle to participate in family self-sufficiency activities that will prepare the client for employment. BEM pages 11, and 12

In this case the Claimant applied for DSS car repair and was told she would be denied because she did not have valid insurance. Exhibit 1. BEM 232 does not require proof of insurance be provided unless the DSS request for assistance is to purchase a new car. BEM 232 pages 12 and 13. This proof of valid insurance requirement may be a local requirement, but there is nothing in the record to indicate that proof of insurance is required by the local district office for a car repair application. However, before the Claimant's application was denied, the claimant submitted valid insurance for her vehicle. It also appears that the other reason for denial was that Claimant did not state that she was employed or needed a car for family self sufficiency activities or to accept a verified job offer. None of these need criterion were verified or clarified by the Department before the Notice of Case Action was sent denying the DSS request.

The Notice of Case Action dated June 10 2010 denied the application because the Claimant did not meet the program requirements. Exhibit 2. Case notes indicate that the Claimant submitted valid insurance on June 2, 2010. The DSS application was again denied by Application Notice dated August 4, 2010 because she did not have an active case with the Department. At the time of the application notice the Claimant had an open FAP case which had just been increased. Exhibits 2 and 3.

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Because the record contains conflicting reasons for the denial of the Claimant request for car repair, and because it is clear that the last reason for the denial, that the Claimant was denied because she did not have an open case with the Department was in error because the Claimant had an open FAP at the time, the Department's actions are REVERSED.

DECISION AND ORDER

The Administrative Law Judge based upon the above findings of fact and conclusions of law that the Department properly applied policy in putting the FAP increase into effect and therefore must AFFIRM the Department's action regarding the Claimant's FAP benefit increase for July 2010. Also, that the Department erred when it denied the Claimant's request for DSS based upon her not having an open case with the Department at the time, which was factually incorrect and therefore its denial of the DSS application is REVERSED.

Accordingly it is ordered:

The Department shall reinstate retroactive to the date of closure the Claimant's DSS application for car repairs and properly review the Claimant's eligibility. The Department shall not use the lack of an open case with the Department as a reason for the denial. Additionally the Department shall specifically determine whether the Claimant is either employed or seeking employment or participating in family support activities or has a verified job offer when making its determination.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/06/2010

Date Mailed: 10/06/2010

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

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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 of the rehearing decision.

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