

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

IN THE MATTER OF:



Reg. No.: 2011-10788
Issue No.: 3006/2003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: January 20, 2011
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 January 20, 2011.

ISSUE

1. Did the Department of Human Services (DHS) correctly deny claimant's FAP application for failing to appear for an appointment?
2. Did the Department of Human Services correctly deny claimant's MA application for her daughter because claimant's daughter was above the age limit for the MA program in question?

FINDINGS OF FACT

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

1. FAP and MA applicant in Macomb County.
2. Claimant applied for FAP benefits and MA benefits on behalf of her daughter in Macomb County on October 8, 2010.
3. Claimant's daughter was considered too old to apply for MA on her mother's case, and was denied for MA benefits.
4. At no time did the Department representative offer claimant's daughter her own MA application.

5. Claimant's daughter needed assistance in filling out an MA application.
6. DHS scheduled an in-person interview for the claimant for the purposes of her FAP application.
7. Claimant appeared on time for this interview, but was never called for the interview after appearing in the DHS waiting room.
8. Claimant's interview time had been changed from the official time in the Bridges system; despite this, claimant still showed up for the correct interview.
9. Claimant's FAP application was denied for failing to attend the interview.
10. On December 10, 2010, claimant requested a hearing.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM) and Reference Tables (RFT).

With regard to claimant's FAP application, during the course of the hearing, the Department submitted one exhibit—the hearing summary.

No other documentary evidence was submitted to support the Department's case. No evidence of scheduled appointments or first-hand testimony was offered.

The undersigned asked the Department if it wished to offer any more supporting evidence and was told by the Department that they were satisfied with their case.

Meanwhile, claimant testified that she had shown up to her interview, and was never called for that interview. The undersigned finds this testimony credible. The Department testified that claimant's interview was scheduled incorrectly in the Bridges system. No evidence was offered to show that the claimant had failed to attend the interview in question.

Therefore, the Administrative Law Judge rules that the Department has failed to meet their burden of proof in proving that claimant failed to attend the interview. In fact, the only submitted evidence—in the form of testimony—shows that the Department gave the claimant notice of an incorrect time for an interview, and verbally notified the claimant that interview time had changed. There is no evidence that this time was ever officially changed, nor is there evidence that the claimant did not appear at the DHS office on the day in question. The evidence at hand does nothing to address the foundation of the Department's case—that the claimant did not attend her required interview. For these reasons, the undersigned must hold that the Department has not proven their case, with regard to claimant's FAP application. As there is no evidence, the undersigned has no choice but to reverse the Department's denial of claimant's FAP application, and order a reprocessing of said application.

With regard to claimant's daughter's application for MA benefits, the Department representative may indeed have been correct that claimant's daughter required a separate application. However, the undersigned is struck by the fact that there is no evidence that the Department ever offered claimant's daughter an application. Claimant's testimony indicated that the claimant's daughter required assistance with regard to this application. BAM 105 states that a client has a right to apply for benefit assistance. While the claimant's daughter may not have been eligible on her mother's case, at the very least she was allowed to apply upon her own case; claimant's caseworker should have offered claimant's daughter her own application. By not informing claimant, or her daughter, of that right, claimant's caseworker effectively denied claimant's daughter the right to apply upon her own case. The correct action was to offer claimant's daughter her own application, and invite her to apply, rendering assistance with the application if needed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department was incorrect when it denied claimant's FAP application. The Department was also incorrect when it failed to provide claimant's daughter with an application for MA benefits.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

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The Department is ORDERED to reprocess claimant's FAP application retroactive to the date of application. The Department is FURTHER ORDERED to provide claimant's daughter with an application for MA benefits, which shall be processed with a filing date of October 8, 2010.



Robert Chavez
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/16/2011

Date Mailed: 2/16/2011

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 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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