

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201112978
Issue No: 1005
Case No: [REDACTED]

Hearing Date:
March 3, 2011
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on September 3, 2010. After due notice, a telephone hearing was held on Thursday, March 3, 2011. The Claimant was represented during the hearing by his spouse, an adult member of the Claimant's benefit group, who requested the hearing on behalf of the Claimant.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

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 was an ongoing Family Independence Program (FIP) recipient.
2. On May 10, 2010, the Department sent the Claimant a Verification Checklist with a due date of May 20, 2010.
3. On May 29, 2010, the Department notified the Claimant that it would terminate his FIP benefits for failure to provide information necessary to determine eligibility for benefits.

4. The Department received the Claimant's request for a hearing on September 3, 2010, protesting the termination of his FIP benefits.

CONCLUSIONS OF LAW

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600. The State Office of Administrative Hearings and Rules ("SOAHR") may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service
- Suspension or termination of program benefits or service
- Restrictions under which benefits or services are provided
- Delay of any action beyond the standard of promptness
- For FAP only, the current level of benefits or denial of expedited service

BAM Item 600, page 1. Additionally, for MA purposes, SOAHR may grant a hearing on other issues not applicable here, such as community spouse income, allowance, asset assessment, etc.

In this case, the Department sent a notice of denial of Family Independence Program (FIP) benefits to the claimant on May 29, 2010. The Claimant's Authorized Hearings Representative signed a request for a hearing on September 3, 2010, and the Department received the hearing request on the same day, which was 97 days after the Department's issued its notice of case action.

Pertinent department policy and applicable law dictates that:

- The AHR or, if none, the customer has 90 calendar days from the date of the written notice of case action to request a hearing. BAM, Item 600, p. 5.
- A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).
- The claimant shall be provided reasonable time, not to exceed 90 days, in which to appeal an agency action. 45 CFR 205.10.
- The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. 42 CFR 431.221.

This hearing request is **HEREBY DISMISSED** because the request for a hearing was not made within 90 days of the date of notice.

In the alternative, if this Administrative Law Judge were able to take jurisdiction of this issue, the Claimant disputes the Department's termination of Family Independence Program (FIP) benefits for failure to submit information necessary to determine eligibility to receive benefits.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person,

organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130, p. 4. The Department should send a negative action notice when the client indicates a refusal to provide the verification, or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4. The Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130, p. 4.

In this case, the Claimant was an ongoing Family Independence Program (FIP) recipient. On May 10, 2010, the Department sent the Claimant a Verification Checklist with a due date of May 10, 2010. The Department had requested information about a child living in the Claimant's home. On May 29, 2010, the Department notified the Claimant that it would terminate his FIP benefits for failure to provide information necessary to determine eligibility for benefits.

The Claimant argued that the Verification Checklist was not received.

The Department addressed the May 10, 2010, Verification Checklist to the Claimant's correct mailing address on record. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence.

[REDACTED] In this case, the Claimant failed to rebut the presumption of receipt.

Based on the evidence and testimony available during the hearing, the Department has established that it properly terminated the Claimant's Family Independence Program (FIP) benefits for failure to provide information necessary to determine eligibility.

However, the Claimant's Request for a Hearing is DISMISSED for lack of timeliness.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Request for Hearing is DISMISSED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 16, 2011

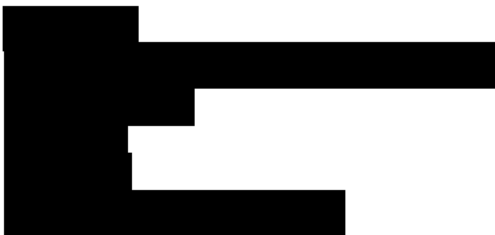
Date Mailed: March 17, 2011

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 date of the rehearing decision.

KS/tg

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