

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-24684
Issue Nos.: 1000, 3014,
5000, 6019
Case No.: [REDACTED]
Hearing Date: April 11, 2011
DHS County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on April 11, 2011. Claimant appeared and testified. [REDACTED], Claimant's Authorized Representative, also appeared and testified at the hearing. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUES

1. Whether Claimant is eligible for State Emergency Relief (SER) benefits?
2. Whether Claimant is eligible for Family Independence Program (FIP) benefits?
3. Whether Claimant is eligible for Food Assistance Program (FAP) benefits?
4. Whether Claimant is eligible for Child Care and Development (CDC) benefits?

FINDINGS OF FACT

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

1. In 2010, Claimant received FIP and FAP benefits.
2. In October 2010, Claimant moved in with her mother, [REDACTED].
3. DHS provides FAP benefits to [REDACTED].

4. In January or February 2011, Claimant applied for SER benefits for utility assistance.
5. On February 2, 2011, DHS denied Claimant's SER application.
6. Effective March 1, 2011, DHS discontinued Claimant's FAP benefits.
7. In March 2011, for one month only, Claimant's FIP benefit changed from \$158 to \$133.
8. On March 9, 2011, Claimant filed a hearing request with DHS.
9. At the Administrative Hearing on March 11, 2011, DHS agreed to reopen, review and reprocess Claimant's SER application and review Claimant's March 2011 FIP benefits.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.7001-400.7049. DHS policies are found in the State Emergency Relief Manual (ERM). This manual is available online at www.michigan.gov/dhs-manuals.

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code 601 *et seq.* DHS administers the FIP program pursuant to MCL 400.10 *et seq.* and MACR 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. DHS provides services to adults and children pursuant to MCL 400.14(1) and MACR 400.5001-.5015. DHS' policies are contained in BAM, BEM and RFT. *Id.*

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

This case concerns Claimant's eligibility for four different DHS programs, and I will address each separately. I will first examine DHS' denial of SER benefits. DHS' reason for the denial of SER benefits was that Claimant failed to make minimum utility payments for the six months before her SER application, and she, therefore, owed more money on her utilities than DHS was able to assist her with. At the hearing, Claimant disputed this and testified she made substantial utility payments over the previous six months. In response, DHS agreed to reconsider Claimant's SER application, review her utility payment record for the six months prior to the application and, if appropriate, reprocess the SER application. At the hearing, Claimant testified that she agreed with this arrangement and did not wish to proceed with the Administrative Hearing on this issue.

Second, I will examine Claimant's one-time FIP benefit reduction of March 2011. At the hearing, DHS agreed to review the one-month reduction of Claimant's FIP benefits and, if appropriate, pay supplemental benefits to her in order that Claimant would receive all benefits to which she was entitled. Claimant testified that she agreed to this remedy and did not wish to pursue this issue further at the Administrative Hearing.

To summarize, in this case the parties have reached a settlement agreement about two of the four issues raised in Claimant's Hearing Request. First, with regard to Claimant's SER application, DHS agrees to reopen and review Claimant's SER application, and provide SER benefits if appropriate. Second, DHS agrees to review the one-month reduction in Claimant's FIP benefits and provide supplemental FIP benefits if appropriate. As the parties have reached a fair and reasonable settlement on these two issues, it is not necessary for the Administrative Law Judge to rule on these issues in this case.

I now turn to the third and fourth issues in this case, which are FAP and CDC benefits. In regard to FAP benefits, Claimant's third issue, I have reviewed all of the testimony and evidence in this case. At the hearing, Claimant testified she returned to live with her mother, a FAP recipient, in October 2010. This is a change of circumstances which results in Claimant's ineligibility for her own group benefits according to BEM 212, "Food Assistance Program Group Composition."

BEM 212 states:

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. BEM 212, p. 1 (boldface in original).

This policy applies directly in the case before me. I find and determine that Claimant is under twenty-two years of age and moved in with her mother, thereby disqualifying herself for a FAP group that is separate from her mother's FAP group. At the hearing, Claimant testified she was unaware of the policy. I decline to rule that Claimant's lack of knowledge requires DHS to pay benefits to Claimant to which she is not entitled. Accordingly, I AFFIRM DHS' action terminating Claimant's FAP benefits. DHS need take no further action with regard to Claimant's FAP benefits.

Finally, the fourth and final issue in this case is Claimant's application for CDC benefits. At the hearing, Claimant testified that she applied for CDC benefits about a month before the hearing but had heard nothing with regard to her CDC application. DHS testified at the hearing that there was no application in Claimant's file. Claimant provided no proof that she filed an application other than her testimony. As the record contains nothing to substantiate Claimant's testimony, I decide and determine that Claimant has failed to establish by clear and convincing evidence that she applied for CDC benefits. I AFFIRM DHS' failure to process Claimant's application for CDC benefits as there is insufficient proof to establish that Claimant filed a CDC application.

In conclusion, to summarize my four findings in this case, I present them as follows:

1. Based on the settlement agreement of the parties, and the findings of fact and conclusions of law above, IT IS HEREBY ORDERED that DHS shall reopen and review Claimant's SER application and provide SER utility benefits to Claimant as appropriate.
2. Based on the settlement agreement of the parties, and the findings of fact and conclusions of law above, IT IS HEREBY ORDERED that DHS shall review Claimant's March 2011 FIP benefits of \$133 and provide supplemental FIP benefits to Claimant as appropriate for the month of March 2011.
3. Based on the findings of fact and conclusions of law above, DHS is AFFIRMED as to its termination of Claimant's FAP benefits. DHS need take no further action with regard to Claimant's FAP benefits.


4. Based on the findings of fact and conclusions of law above, DHS is AFFIRMED as to not providing CDC benefits to Claimant based on the absence of a CDC application in this file.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and on the stipulated settlement agreement of the parties, decides, and IT IS SO ORDERED, that:

1. DHS shall reopen Claimant's SER application, review the payment record for the previous six months, and provide SER benefits as appropriate.
2. DHS shall review Claimant's March 2011 FIP benefits of \$133 and provide supplemental benefits as appropriate.

The Administrative Law Judge, based on the findings of fact and conclusions of law above, AFFIRMS the Department's termination of Claimant's FAP benefits and AFFIRMS the Department's denial of CDC benefits to Claimant. DHS need take no further steps with regard to Claimant's FAP and CDC benefits.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 21, 2011

Date Mailed: April 25, 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 90 days of the filing of the original request.

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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.

JL/pf

cc:

