

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30412
Issue Nos.: 1000, 1014, 3000
Case No.: [REDACTED]
Hearing Date: May 19, 2011
DHS County: Wayne (82-55)

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 May 19, 2011. Claimant appeared and testified at the hearing. [REDACTED]

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits are correctly calculated in accordance with DHS policies and procedures?
2. Whether Claimant is entitled to Direct Support Services (DSS) as part of her participation in the Family Independence Program (FIP)?

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 2011, Claimant received FIP and FAP benefits from DHS.
2. DHS records indicate that Claimant's FIP benefits changed in each of the months of January, February, and March 2011.
3. DHS records indicate that Claimant's FAP benefits changed in each of the months of February, March and April, 2011.

4. Before February 28, 2011, Claimant discussed Direct Support Services (DSS) benefits with DHS, to assist her in buying a car.
5. On February 28, 2011, Claimant filed a Request for Hearing with DHS.
6. At the Administrative Hearing on April 27, 2011, DHS and Claimant agreed to settle Claimant's FIP and FAP disputes with the action that DHS will undertake a complete review of Claimant's income and family group size circumstances from January 1, 2011, to the present and make any appropriate adjustments by way of issuing supplemental FIP and FAP benefits.

CONCLUSIONS OF LAW

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 Michigan Administrative Code Rules (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 FAP pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

The DHS manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

Under BAM Item 600, "Hearings," 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 continue through the day of the hearing. BAM 600.

In this case, the parties stipulated to a settlement agreement whereby DHS will recalculate Claimant's FIP and FAP benefits from January 1, 2011, to the present and provide her with any supplemental benefits that are appropriate to put her in the position to which she is entitled. I find that the agreement of the parties is consistent with FIP and FAP policy and procedure and provides an appropriate solution in this case. As the parties have reached an agreement, it is not necessary for the Administrative Law Judge to decide the FIP and FAP issues presented in this case.

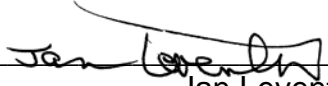
Turning next to the provisions of BEM 232, "Direct Support Services," I find that Claimant has raised this issue prematurely as DHS has taken no action on this issue. Because DHS has not yet granted or denied DSS benefits to Claimant, I can only affirm DHS on this issue.

In conclusion, based on the findings of fact and conclusions of law above and based on the settlement agreement of the parties, I order that DHS shall recalculate and reprocess Claimant's FIP and FAP benefits from January 1, 2011, to the present and provide her with any supplemental benefits to which she is entitled. I further AFFIRM DHS' lack of action on Claimant's request for car expense assistance, as Claimant has not made a formal application for DSS as of this date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact, conclusions of law, and the stipulation of the parties, states IT IS HEREBY ORDERED that DHS shall recalculate Claimant's FIP and FAP benefits from January 1, 2011, to the present and provide supplemental benefits to her to which she is entitled. IT IS FURTHER ORDERED that DHS is PARTIALLY AFFIRMED in this case with regard to DSS benefits. IT IS ORDERED that DHS need take no further action with regard to Claimant's issue as to DSS benefits.

All steps shall be taken in accordance with DHS policies and procedures.



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

Date Signed: May 24, 2011

2011-30412/JL

Date Mailed: May 26, 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.

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

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