

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-31834
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: June 1, 2011
DHS County: Macomb (50-20)

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 June 1, 2011. Claimant appeared and testified at the hearing. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS computed Claimant's Food Assistance Program (FAP) allotment in accordance with DHS policies and procedures?

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 FAP benefits from DHS.
2. On February 25, 2011, DHS issued a Notice of Case Action closing Claimant's FAP benefits effective May 1, 2011.
3. On March 8, 2011, Claimant filed a Notice of Hearing Request.
4. As a result of Claimant's request, Claimant's case was not closed and her FAP benefits continued.

5. On March 28, 2011, DHS issued a second Notice of Case Action decreasing Claimant's FAP benefits to \$16 effective April 1, 2011.
6. On April 4, 2011, Claimant filed a Request for a Hearing with DHS.
7. At the Administrative Hearing on June 1, 2011, DHS offered to recalculate Claimant's FAP benefits from April 1, 2011, to the present, using Claimant's son's income and Claimant's verified expenses in order to recalculate the correct benefit amount.
8. Claimant accepted this offer and testified she no longer wished to continue the Administrative Hearing.

CONCLUSIONS OF LAW

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 Michigan Administrative Code Rules 400.3001-400.3015. 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.

BAM, BEM and RFT 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, 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.

In this case, the parties stipulated to a settlement agreement whereby DHS will recalculate Claimant's FAP budget from April 1, 2011, to the present, using Claimant's son's income and Claimant's verified expenses in the recalculation process. DHS also agrees to adjust Claimant's FAP benefits accordingly. As the parties have reached an agreement, it is not necessary for the Administrative Law Judge to decide the issue presented in this case.

In conclusion, based on all of the findings of fact and conclusions of law and the stipulated agreement of the parties, I HEREBY ORDER that DHS shall recalculate Claimant's FAP benefits from April 1, 2011, to the present, or other appropriate dates, and provide any adjustments to Claimant to which she is entitled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law and the settlement agreement of the parties, orders the following settlement in this case: IT IS ORDERED that DHS shall recalculate Claimant's FAP budget from April 1, 2011, to the present, or other appropriate dates, and provide retroactive supplemental FAP benefits necessary to provide Claimant with all benefits to which she is entitled. All steps shall be taken in accordance with DHS policies and procedures.

IT IS SO ORDERED.



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

Date Signed: June 8, 2011

Date Mailed: June 8, 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.

JL/pf

cc:

