

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

IN THE MATTER OF:

[REDACTED]

Reg. No:

[REDACTED]  
Oakland County DHS

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing dated July 30, 2011. After due notice, a telephone hearing was held on August 23, 2011. Claimant personally appeared and provided testimony.

**ISSUE**

Did the department properly determine that Claimant's FAP should be reduced due to excess income?

**FINDINGS OF FACT**

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

1. Claimant requested a hearing in this matter because his FAP had been reduced.
2. Beginning on April 2, 2010, Claimant was active for monthly FAP in the amount of [REDACTED] for a group size of 5. (Notice of Case Action).
3. According to the department's Bridges FAP Eligibility Summary for 2010 and 2011, the department closed Claimant's FAP in June, 2010. (Department Exhibit 12).<sup>1</sup>
4. In August, 2010, Claimant was approved for FAP in the amount of [REDACTED]. (Department Exhibit 12). The department did not provide any additional documents to explain what occurred in this regard.
5. The next month (September, 2010), Claimant's FAP was reduced to [REDACTED]. (Department Exhibit 12).

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<sup>1</sup> Despite a request, the department did not provide a Notice of Case Action that explained Claimant's FAP benefits during this time period.

6. In October, 2010, the Department closed Claimant's FAP benefits. (Department Exhibit 12).
7. In November, 2010, Claimant was awarded FAP in the amount of [REDACTED]. (Department Exhibit 12).
8. Then, in December, 2010, Claimant's FAP increased to \$318.00, but was reduced to [REDACTED] one month later in January, 2011. (Department Exhibit 12).
9. According to Bridges FAP Eligibility Summary, Claimant had the following FAP allotments in 2011: February ([REDACTED]), March ([REDACTED]), April ([REDACTED]), May ([REDACTED]) and July ([REDACTED]0). (Department Exhibit 12).
10. Claimant submitted a hearing request on July 30, 2010 contesting the closure of his FAP in June, 2010 and challenged the volatility in the amount of his FAP allotment from April through July 2010. (Request for a Hearing).
11. The department representative who appeared at the hearing in this matter did not have a copy of the hearing summary. In fact, the hearing summary provided to the Administrative Law Judge did not contain documents that were relevant to the issues present in this hearing. (Hearing Packet).
12. The department did not provide documentation that demonstrated why Claimant's FAP had closed in June, 2010 or why Claimant's FAP allotment ranged from [REDACTED] from month-to-month. (Hearing Packet)
13. The department did not provide documentation within the hearing packet (or subsequently) that contained the income calculations for Claimant's FAP benefits nor did the department provide documentation to show how it reached these figures from June, 2010 through early 2011. (Hearing Packet).

### **CONCLUSIONS OF LAW**

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about 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 standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings, are instructed to always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

Claimant's request for a hearing in the instant matter appears to concern the following the Food Assistance Program (FAP). 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 Program Reference Manual (BRM).

In the instant matter, the department has failed to clearly communicate to this Administrative Law Judge the precise nature of the department's actions giving rise to Claimant's request for a hearing. As stated above, BAM 600 provides that the ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. Based on the record in this matter, this Administrative Law Judge is unable to render a reasoned, informed decision in this matter. The department's Hearing Summary (DHS-3050) in this matter is woefully inadequate. The hearing summary consisted of the following facts:

"Based on household size and reported of unemployment and RSDI. This caused a spend-down on medical assistance for adult. This caused termination of FAP. Customer reapplied FAP benefits reduced based on income." [sic]

Contrary to the requirements of BAM 600, the DHS-3050 in the instant matter did not include a clear statement of the case action or facts which led to the action. BAM 600. During the hearing, the department worker was unable to clarify the issues or otherwise interpret the hearing summary. A review of hearing packet in this matter revealed that many salient documents were missing and/or the documents that were present created

more questions than it provided answers. Even the department's hearing summary did not provide any insight as to the relevant department action giving rise to Claimant's hearing request. During the hearing, the department worker was unable to clearly and succinctly articulate the nature of the department's actions giving rise to the Claimant's request for a hearing.

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this Administrative Law Judge to determine whether the department followed policy as required under BAM 600.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP eligibility.

Therefore, the department's determination that Claimant's FAP should be closed in June and July, 2010 is REVERSED and the department is hereby instructed to do the following:

- Redetermine Claimant's eligibility for FAP during June, 2010 and July, 2010 and recalculate Claimant's FAP benefits during that time period. The department shall issue any retroactive benefits that Claimant is entitled to receive.

It is SO ORDERED.

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/s/  
C. Adam Purnell  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: \_\_\_\_\_ 9/8/11 \_\_\_\_\_

Date Mailed: \_\_\_\_\_ 9/8/11 \_\_\_\_\_

**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.

CAP/ds

