

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2011-50624  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: October 6, 2011  
County: Oakland County DHS

**ADMINISTRATIVE LAW JUDGE:** Susan C. Burke

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 6, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Advocate, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] JET Case Manager.

**ISSUES**

Did Claimant make a timely hearing request on the negative Notice of Case Action of July 27, 2010?

Did the Department properly deny Claimant's Family Independence Program (FIP) application of September 20, 2010 for FIP benefits?

**FINDINGS OF FACT**

1. Claimant applied for FIP benefits on July 20, 2010.
2. On July 27, 2010, the Department mailed a Notice of Case Action to "General Delivery, [REDACTED] denying Claimant's FIP application.
3. Claimant did not receive the Notice of Case Action.
4. Claimant expected to receive unemployment benefits during this time period, but did not.

5. Claimant reapplied for FIP benefits on September 20, 2010.
6. The Department issued a referral to Claimant to attend Work First orientation on September 21, 2010.
7. Claimant attended the Work First Orientation on September 21, 2010.
8. Claimant requested a Work First location closer to her residence.
9. The Department made a change of assignment of Department workers at the time of Claimant's request for re-location of Work First assignment.
10. Claimant attempted to contact the Department and was waiting for a response regarding the change of location for Work First when on October 14, 2010, the Department denied Claimant's FIP application of September 20, 2010 for failing to attend Work First.
11. On December 6, 2010, Claimant requested a hearing, asking for retroactive benefits for both FIP and Food Assistance Program (FAP) benefits.
12. Claimant reapplied for FIP and has been receiving FIP since December 13, 2010.
13. Claimant stated at the hearing that she was no longer requesting a hearing with regard to FAP.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

**TIMELINESS OF REQUEST FOR HEARING REGARDING JULY 27, 2010 NOTICE**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, 1999 AC, Rule 400.901 through Rule 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1).

The Bridges Administrative Manual (BAM) 600, p. 4, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

In the present case, Claimant applied for FIP benefits on July 20, 2010. The Department denied Claimant's application on July 27, 2010, sending the Notice of Case Action to "General Delivery, Pontiac, Michigan 48343." Claimant did not receive the Notice of Case Action. However, Claimant was aware that she applied for FIP and that she did not receive FIP benefits. Claimant testified that she did not seek further assistance from the Department with regard to FIP until September 20, 2010 because she assumed she would be getting unemployment benefits. Claimant reapplied for FIP on September 20, 2010. Claimant did not request a hearing with regard to the denial of the July 20, 2010 FIP application until December 6, 2010. I find that even though Claimant did not physically receive the Notice of Case Action of July 27, 2010, she was aware that her FIP application was denied, as she did not receive FIP benefits. Because Claimant's request for hearing was not within ninety days of the disputed action taken by the Department, the request for hearing with respect to the negative action notice of July 27, 2010 must be dismissed for lack of jurisdiction.

**SEPTEMBER 20, 2010 APPLICATION FOR FIP BENEFITS**

The Department requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 230A; BEM 233A. All Work Eligible Individuals (WEIs) are required to participate in the development of a Family Self-Sufficiency Plan (FSSP) unless good cause exists. BEM 228.

In the present case, Claimant reapplied for FIP benefits on September 20, 2010. Claimant testified credibly that she followed the direction of the Department and attended the Work First orientation of September 21, 2010. Claimant stated that she asked at Work First to be assigned to a location closer to her residence. Claimant's understanding from Work First workers was that she would be reassigned by the Department. Claimant was awaiting reassignment of Work First location from the Department when the Department denied her application for not attending Work First.

The Department representative testified that Claimant was reassigned Department workers on September 20, 2010, so it is logical to conclude that Claimant's request for reassignment was not directed to the new worker. I find that Claimant did participate in employment activities as required by Department policy, and therefore the Department was not correct in its decision to deny Claimant's FIP application of September 20, 2010.

### **DECISION AND ORDER**

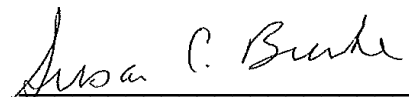
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, finds that Claimant's request for hearing regarding the Department's July 27, 2010 denial of Claimant's application for FIP benefits was not timely, and it is therefore ORDERED that the request for hearing is DISMISSED.

It is further ORDERED that Claimant's request for hearing regarding FAP is DISMISSED, as Claimant stated she was no longer aggrieved by the Department's action regarding FAP.

In addition, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, this Administrative Law Judge finds that the Department did not act properly in denying Claimant's September 20, 2010 application for FIP benefits, and it is therefore ORDERED that the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate reinstatement and reprocessing of Claimant's application for FIP of September 20, 2010.
2. Initiate issuance of FIP supplements to Claimant, September 20, 2010 and ongoing, if Claimant is found to be eligible for FIP at that time.



Susan C. Burke  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 10/14/11

Date Mailed: 10/14/11

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

SCB/sm

cc:

