

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-52748
Issue No: 1022, 3014
Case No: [REDACTED]
Hearing Date: October 19, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing received on September 15, 2011. After due notice, a telephone hearing was held on October 19, 2011. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly terminate and sanction the claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?
2. Whether the department properly determined the claimant's Food Assistance Program (FAP) benefits?

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 was a mandatory JET participant and was receiving FIP and FAP benefits at all relevant time periods.
2. From June, 2011 through August, 2011, Claimant had at least 3 (three) children living in her household. At some point, the children moved out of Claimant's household to live with their father, but the children eventually returned to live with Claimant.
3. During this time period, Claimant submitted multiple applications for assistance but did not include all of her children as group members in each application.

4. On June 22, 2011, Claimant's FIP was closed due to a violation of the JET program. Claimant requested a hearing before an Administrative Law Judge on September 8, 2011, but the hearing was dismissed after Claimant failed to appear for the telephone hearing. (Hearing Summary & Department Exhibit 4).
5. On August 24, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605), which decreased Claimant's FAP because two of her children were not living in her household. (Department Exhibits 5-8).
6. On September 1, 2011, Claimant requested a hearing in this matter concerning "food stamps and cash assistance." (Request for Hearing).
7. The department provided the Administrative Law Judge with a hearing packet that contained 12 (twelve) pages including (Hearing Summary, Request for Hearing, Order of Dismissal, MIS Notes, and the Notice of Case Action dated August 24, 2011).
8. The department's Hearing Summary indicated that Claimant's hearing request concerned the FIP closure and FAP reduction both due to the violation of the JET program.
9. During the hearing in the instant matter, Claimant indicated that her hearing request concerned the department's failure to include two of her children as group members and that the issues indicated on the Hearing Summary were not relevant to her hearing request.
10. The department representatives who attended the hearing believed that the issue concerned group composition and that the department did not verify Claimant's group size. There was no documentation in the hearing packet with regard to the group composition issue.

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 two programs: the Food Assistance Program (FAP) and the Family Independence Program (FIP). These programs are summarized below.

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

With regard to FIP, the department requires its clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233 A. The department's focus is to assist clients in removing barriers so they can participate in

activities which lead to self-sufficiency. BEM 233A. But there are consequences for a client who refuses to participate, without good cause. BEM 233A.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. BEM 233A. The department's stated goal is to bring the client into compliance. BEM 233A. The department recognizes that noncompliance may be an indicator of possible disabilities. BEM 233A. In this regard, the department does explore whether the client is confronted by any barriers. BEM 233A.

In the instant matter, it is clear that Claimant missed her opportunity to address the FIP closure due to the JET violation on September 8, 2011. When Claimant failed to appear for her hearing scheduled on September 8, 2011, she waived her right to a hearing on this issue. Claimant cannot simply request a second hearing regarding the same issue. Insofar as Claimant's FIP is under the three month sanction period, Claimant's request for hearing is dismissed.

The second issue concerns Claimant's request for hearing concerning FAP. In her hearing request, Claimant was not specific about why she requested a hearing until the hearing commenced. During the hearing, it appeared as though Claimant's issue concerned her FAP allotment and proper group composition. In preparing the hearing packet, the department did not provide the Administrative Law Judge with sufficient information concerning Claimant's FAP issue. As a result, this Administrative Law Judge cannot determine the precise nature of the department's actions making it impossible to make a reasoned, informed decision. During the hearing, the department workers were unable to clearly and succinctly articulate the nature of the department's actions giving rise to the request for a hearing.

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof with regard to the FAP question and did not provide information necessary to enable this ALJ 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, decides that Claimant's request for hearing concerning FIP is DISMISSED due to lack of jurisdiction. The FIP issue was previously dismissed and Claimant failed to appear for that previous hearing.

With regard to Claimant's request for hearing concerning FAP, the department is REVERSED and the department is hereby instructed to redetermine Claimant's eligibility for FAP including a redetermination of Claimant's proper fiscal group size. To the extent that Claimant is otherwise eligible, the department shall also issue any retroactive FAP benefits that Claimant is entitled to receive.

It is SO ORDERED.

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

Date Signed: 11/2/11

Date Mailed: 11/2/11

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

