

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

IN THE MATTER OF:

[REDACTED]

[REDACTED] [REDACTED]
Kalamazoo 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 1, 2011. After due notice, a telephone hearing was held on October 12, 2011. The claimant personally appeared and provided testimony. The Department of Human Services was represented by [REDACTED] Case Manager.

ISSUES

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP)?

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 receiving FAP at all relevant time periods.
2. Claimant requested a hearing regarding the potential closure of her FAP benefits purportedly due to excess income.
3. In preparation for the hearing, the Department provided the Administrative Law Judge with a hearing packet. (Hearing Packet).
4. The Department's hearing summary contained in the hearing packet indicated that Claimant was not eligible for FAP based on previously unreported self-employment income. (Hearing Summary).
5. On or about June 20, 2011, the Department received Claimant's Application for State Emergency Relief (DHS-1514) which indicated that she and her husband have a home-based newspaper delivery business. (Department Exhibit 1-5).

6. The Department's hearing packet did not contain a Notice of Case Action (DHS-1605) relevant to the Claimant's FAP benefits. (Hearing Packet).
7. The hearing packet also did not contain a breakdown of Claimant's self-employment expenses that was used when the Department prepared the budget in determining Claimant's FAP eligibility. (Hearing Packet).
8. On September 1, 2011, Claimant submitted a hearing request to challenge the Department's decision regarding her FAP eligibility. (Request for Hearing).

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 Food Assistance Program (FAP). This program is 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).

In the instant matter, the issue appears to be whether the Department properly determined Claimant's FAP eligibility based on excess self-employment income. However, the Department did not provide a Notice of Case Action (DHS-1605), which is essential in order for the Administrative Judge to render a reasoned, informed decision or to provide the Claimant with a fair hearing. In this particular hearing, the DHS-1605 is indispensable. However, the ALJ was not provided with documentation to objectively show Department action that affected Claimant's FAP benefits. There was no indication whether Claimant's FAP benefits were closed or were reduced. During the hearing, the Department representative indicated that she would forward the Notice of Case Action as well as supportive documentation to show how the Department calculated Claimant's FAP allotment, but the documents were not provided. 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 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, is unable to decide whether the Department acted in accordance with policy in determining Claimant's FAP eligibility.

Therefore, the department's FAP determination is REVERSED and the department is hereby instructed to do the following:

- Redetermine Claimant's eligibility for FAP benefits and conduct a comprehensive recalculation of FAP including:
 - Verification of Claimant's earned and unearned income,
 - Determination of Claimant's proper fiscal group size,
 - Determination of any and all applicable expenses,

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: 10/19/11

Date Mailed: 10/19/11

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

■ [REDACTED]