

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201119882
Issue No. 3008
Case No. [REDACTED]
Hearing Date: March 16, 2011
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was held on March 16, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether Claimant has standing to request a hearing disputing any actions taken on her daughter's Child Development and Care (CDC) and Family Independence Program (FIP) benefits.
2. Whether DHS properly terminated Claimant's ongoing Food Assistance Program (FAP) benefits due to an alleged failure by Claimant to verify income information.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. On an unspecified date, DHS mailed a Verification Checklist requesting Claimant's income verifications for her employment.
3. On 10/21/10, Claimant faxed her employment income stubs for 9/24/08 and 10/8/10.

4. Claimant's DHS specialist failed to receive Claimant's check stubs.
5. On 11/19/10, DHS mailed a Notice of Case Action terminating Claimant's FAP benefits to be effective 11/30/10.
6. On 2/14/10, Claimant requested a hearing disputing the termination of FAP benefits.
7. Claimant's Request for Hearing also disputed alleged adverse actions concerning "cash" and "child care" benefits for her daughter.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found 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, 8 USC 601, et seq. The Department of Human Services (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

All clients have the right to request a hearing. BAM 600 at 1. The following people have authority to exercise this right by signing a hearing request: an adult member of the eligible group; or the client's authorized hearing representative (AHR). *Id.* Requests for a hearing must be made in writing and signed by one of the persons listed above. *Id.* at 2.

The appointment of an authorized hearing representative (AHR) must be made in writing. *Id.* An authorized hearing representative must be authorized or have made application through probate court before signing a hearing request for the client. *Id.*

In the present case, Claimant partially requested a hearing to dispute an unspecified adverse action concerning her daughter's FIP and CDC benefits. Claimant was not a member of her daughter's CDC or FIP benefit group. Claimant was not listed as an AHR on her hearing request nor was additional documentation submitted establishing an

AHR relationship. It is found that Claimant had no standing to dispute any actions by DHS concerning her daughter's CDC or FIP benefits.

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RT). Updates to DHS regulations are found in the Bridge's Policy Bulletin (BPB).

In the present case, DHS requested verification of Claimant's employment income. For FAP benefits, countable income must be verified at redetermination or for a member add. BEM 500 at 9. Employment income is countable income. BEM 501 at 5. It is found that DHS appropriately requested and required verification of Claimant's employment income.

Claimant contended that she submitted verification of her employment income on 10/21/10 via fax. Claimant's specialist testified that she never received Claimant's income verification.

Claimant and her specialist testified credibly. Claimant was able to support her testimony with a fax confirmation which verified that a four page fax was sent to DHS on 10/21/10. Though the fax did not verify what specifically was faxed, Claimant's credible testimony supported that income verifications were faxed. Further, DHS could not point to any other faxes received from Claimant on 10/21/10.

Though Claimant's specialist also credibly testified that she did not receive the fax from Claimant, it is reasonable to believe that DHS received the fax but failed to properly forward it to Claimant's specialist. Based on the voluminous amount of documents received by DHS, this would be a reasonable scenario. Based on the evidence presented, it is found that Claimant submitted verification of her income to DHS on 10/21/10.

DHS is to send a negative action notice when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it.

Claimant's specialist understandably sent a negative action notice terminating Claimant's FAP benefits effective the end of 11/2010 after not receiving Claimant's income verification. As it has been found that Claimant timely sent DHS her income verifications, it is found that DHS improperly terminated Claimant's FAP benefits.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant lacks standing to request a hearing disputing any actions taken to her adult daughter's FIP and CDC benefits. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefits effective 11/30/10. It is ordered that DHS shall:

- reinstate Claimant's FAP benefits beginning 12/2010;
- determine Claimant's FAP benefit eligibility for 12/2010 and future months based on Claimant's income verifications dated 9/24/10 and 10/8/10; and
- supplement Claimant for any FAP benefits not received as a result of the improper FAP case termination.

The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 04/01/11

Date Mailed: 04/06/11

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.

CG/dj
cc:

