

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.: 2011-21286
Issue Nos.: 1015, 3002
Case No.: [REDACTED]
Hearing Date: March 23, 2011
DHS County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on March 23, 2011. Claimant appeared and testified at the hearing. [REDACTED], appeared as an interpreter for the Claimant. [REDACTED], and [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits were calculated in accordance with DHS policies and procedures?

FINDINGS OF FACT

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

1. On September 9, 2010, Claimant applied for FIP and FAP benefits with DHS.
2. On September 9, 2010, DHS awarded Claimant \$634 per month FAP benefits. For the month of September, 2010 DHS prorated Claimant's FAP benefits and she received \$351.
3. On October 1, 2010, Claimant began to receive \$377 per month FIP benefits from DHS.

4. In October and November 2010, DHS provided \$634 per month FAP benefits to Claimant.
5. In December 2010, DHS reduced Claimant's FAP benefits to \$464.
6. In December 2010, Claimant received only \$328 FAP benefits.
7. On December 20, 2010, Claimant filed a notice of hearing request with DHS.
8. On February 16, 2011, DHS issued supplementary FAP benefits for December 2010 to Claimant, in the amount of \$136, bringing Claimant's FAP benefit total for December 2010 to \$464.
9. Claimant's FAP benefits were not reduced to \$328, as she has received a FAP supplement bringing her FAP benefits for December and January to \$464 per month.
10. DHS correctly calculated Claimant's FIP and FAP benefits, and paid supplements to Claimant in accordance with DHS policy and procedure.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code 601 *et seq.* DHS administers the FIP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and MACR 400.3001-400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

At the Administrative Hearing, Claimant questioned why her daughter was not included in the FIP grant she received for September 2010. The DHS policy that answers this question is BAM 115, "Application Processing," on page 17.

APPLICATION PROCESSING

Initial Benefits

FIP and SDA [State Disability Assistance] Only (Not AMP [Adult Medical Program])

Provided the group meets all eligibility requirements, begin assistance in the pay period in which the application becomes 30 days old. BAM 115, p. 17 of 26.

Based on the testimony presented and BAM 115 procedure, I find and determine that DHS was correct in failing to issue FIP benefits to Claimant for September 2010, because BAM 115 requires that FIP benefits cannot be issued until the next pay period thirty days after the application. As the application was filed on September 9, 2010, the earliest date Claimant could receive cash assistance was October 1. This is because Claimant's September 9, 2010, application does not become thirty days old until October 9, 2010. This date, October 9, 2010, is in the DHS pay period beginning October 1, 2010.

Accordingly, with regard to Claimant's first complaint, I determine and conclude that DHS acted correctly in beginning FIP benefits to Claimant on October 1, 2010. I find and conclude that DHS acted in accordance with its policies and procedures in this case. I AFFIRM DHS' action.

Claimant's second concern is why her FAP benefits were reduced to \$328 in December 2010. Having examined all of the evidence and testimony in this case, I find that Claimant's benefits were erroneously reduced to \$328 in December, 2010. However, I find and conclude that on February 16, 2011, DHS corrected its error and provided Claimant with supplementary FAP benefits of \$136 for December 2010. I find and conclude that Claimant received a total of \$464 for December 2010 and, as the Agency did correct its error, it is not necessary for this Administrative Law Judge to order a remedy for December 2010. Accordingly I AFFIRM DHS' action with regard to Claimant's December 2010 FAP benefits.

In conclusion, based on the findings of fact and conclusions of law, I find and conclude that DHS is AFFIRMED in this case. DHS need take no further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states IT IS ORDERED that DHS is AFFIRMED in this case. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 31, 2011

Date Mailed: April 4, 2011

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JL/pf

cc:

