

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-28457

Issue No: 3014

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on April 7, 2011. After due notice, a telephone hearing was held on June 23, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied adding Claimant's application to add her grandson to her Food Assistance Program (FAP), Medical Assistance (MA) and Family Independence Program?

FINDINGS OF FACT

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

1. On April 7, 2011, Claimant applied for FAP, MA and FIP for her grandson. (Hearing Summary; Department Exhibits 5-22).
2. On April 12, 2011, the department mailed Claimant a Notice of Case Action denying Claimant's application for her grandson for the FAP, MA and FIP programs because he was active for MA and FAP on another case. (Hearing Summary; Department Exhibits 2-4).
3. Claimant submitted a hearing request on April 7, 2011, protesting that she had been contacting her caseworker since February 1, 2011 and her caseworker failed to return her calls and she wanted a new caseworker and that the benefits should be retroactive to her telephone call on February 1, 2011. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 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 FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. The Department of Human Services (DHS or department) administers the FAP and FIP programs pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015 and MAC R 400.3101-3131 respectively. The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

A request for assistance may be made in person, by mail, telephone or an application can be obtained on the Internet for all programs. The requester has the right to receive the appropriate application form. The DHS-1171, Assistance Application (all programs) packet includes an information booklet and the assistance application. A filing form used to preserve the application filing date is available on the last page of the information booklet and online at www.michigan.gov/dhs-forms. BAM 110.

On April 7, 2011, Claimant applied for FAP, FIP and MA for her grandson at the department. On April 12, 2011, the department mailed Claimant a Notice of Case Action denying Claimant's application for her grandson for FAP and MA because her grandson was on another case based on the policy that a person must not participate as a member of more than one FAP group in any given month. BEM 212, BEM 222.

Claimant filed a hearing request on April 7, 2011, requesting a new caseworker because she had been calling her current caseworker since February 1, 2011, and her caseworker had not returned her calls. Claimant testified that if her caseworker had returned her calls and told her she needed to fill out an application in February 2011, she would have completed the application then. Claimant stated that her caseworker only responded after she emailed her. According to Claimant, her caseworker then informed her of the requirement to submit an assistance application at which time Claimant reported to the department and completed the application.

After Claimant received the Notice of Case Action denying her application on behalf of her grandson, Claimant contacted her caseworker's supervisor and her grandson was subsequently removed from the other case and placed on Claimant's case. The FAP begin date depends on the group's eligibility and whether the 30-day standard of promptness (SOP) has been met. When the 30-day SOP is met, or it is not met but the group is not at fault for the delay, the begin date is either of the following: the application date if the group is eligible for the application month (even if proration causes zero benefits) OR the first day of the month after the application month if that is when the group becomes eligible. BAM 115.

In this case, based on the documentation submitted, Claimant's grandson was on another client's case on the date of application, April 7, 2011. So, in accord with policy BAM 115, the first day of the month after the application month, which was May 1, 2011, was when Claimant's group became eligible and, according to testimony by Claimant and the department during the hearing, when Claimant's grandson began to receive FAP, FIP and MA benefits.

Claimant's remaining issue during the hearing was that she believed she was entitled to receive retro FAP, FIP and MA back to February 1, 2011, when she first called her caseworker and her calls went unanswered. In conjunction with the retro benefits, Claimant also wanted to make a complaint against the caseworker and wanted a replacement. This request is simply a personnel matter and is not within the scope of authority delegated to the Administrative Law Judges in the contested case arena. However, departmental policy at BAM 105 states:

Clients have the right to make general complaints about matters other than the right to apply, nondiscrimination or hearing issues. Written complaints can be sent to:

Michigan Department of Human Services
Specialized Action Center
235 S. Grand Avenue
PO Box 30037
Lansing, MI 48909

That office also responds to complaints via telephone: 517-373-0707. Note: For FAP, if the Specialized Action Center (SAC) contacts the local office regarding a complaint, the local office must respond within five workdays to SAC providing the status of the complaint (for example, requested information from the client, complaint resolved, etc.).

General complaints about only the FAP program are reported on the DHS-1380, Food Assistance Complaint Report. The DHS-1380 is not intended to be used for requesting a hearing involving discrimination complaints or other issues more appropriately handled under the fair hearing process. However, if a client completes the form and requests a fair hearing or files a discrimination complaint, the specialist is required to follow policy in BAM 600 and discrimination complaints in this item to address the issue. Examples for use of the form include, but are not limited to:

- Overdue FAP applications.

- General FAP complaints.
- Allegations of inappropriate or rude behavior of the DHS staff.
- Client complaints of FAP closure due to incomplete or untimely recertifications.
- Allegations the specialist is unresponsive or not acting in a timely manner.

These reports must be maintained and reviewed annually for corrective action purposes. Clients may also send complaints about the FAP program to the FNS regional office:

U.S. Department of Agriculture
FNS Midwest Regional Office
77 W. Jackson Blvd., 20th Floor
Chicago, Illinois 60604-3507

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied Claimant's FIP, FAP and MA application on the basis that he was on his father's FAP case at the time of application.

Accordingly, the department's actions are UPHELD.

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/24/11

Date Mailed: 6/24/11

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.

VLA/ds

■ [REDACTED]