

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

IN THE MATTER OF:



Registration. No: 2011-37613
Issue No: 2018; 3002;
6043

Case No: [REDACTED] 4
Hearing Date: July 12, 2011
Kent County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on June 8, 2011, and, after due notice, one was held on July 12, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUES

The issues in dispute were: (1) whether the Department properly computed Claimant's Food Assistance Program (FAP) benefits allotment; (2) whether the agency took any negative, incorrect, erroneous, or otherwise improper action in this matter regarding Claimant's Medical Assistance (MA) program benefits; and (3) whether the Department took any negative, incorrect, erroneous, or otherwise improper action in this matter regarding Claimant's Michigan supplemental security income (SSP) payments.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Claimant was deemed eligible to receive FAP benefits. His certified FAP group size was one. (Department's Exhibits D-7; D-8; D-13; D-15; Department's hearing summary, dated June 15, 2011.)
2. At all times relevant to this matter, Claimant was determined eligible to receive both social security income (RSDI), supplemental security income (SSI), and SSP payments. (Department's Exhibits D-1; D-2; D-3; D-4; D-16.)

3. At all times relevant to this matter, Claimant was eligible to receive benefits from the MA program – also called Medicaid.
4. On October 29, 2010, Claimant submitted a completed mid-certification contact notice. Based on the information provided by Claimant, his FAP benefits allotment remained at [REDACTED] per month. (Department's Exhibits, D-1; D-7; Department's hearing summary, dated June 15, 2011; Department representative's hearing testimony, July 12, 2011.)
5. Claimant submitted a request for hearing in June 2011. (Claimant's hearing request, dated June 8, 2011.)
6. A pre-hearing conference was scheduled for June 15, 2011, to discuss Claimant's hearing request, but he failed to appear. Claimant's lack of appearance, however, was due to his use of at least three different addresses over an eight-month period (between October 2010 and June 2011) and to the Department's use of the wrong address when it sent out the pre-hearing notice. (Department's Exhibit D-1; Claimant's hearing request; Department representative's testimony, July 12, 2011.)
7. Despite Claimant's absence at the pre-hearing conference, the Department reviewed his case and discovered that he was required to repay federal SSI in the amount of [REDACTED] per month due to a prior overpayment. (Department's Exhibit D-2; Department's hearing summary; Department representative's hearing testimony, July 12, 2011.)
8. Once this expense was included in Claimant's FAP benefits budget, his monthly FAP allotment was increased from [REDACTED], effective July 1, 2011. (Department's Exhibits D-8; D-9; D-13; D-15.)
9. Claimant was informed of this increase in a notice sent to him on June 15, 2011. (Department's Exhibit D-13.)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, there appeared to be no negative action (i.e., no suspension, reduction, discontinuance, or termination of any benefits to which Claimant was eligible) that was taken by the Department in this matter prior to Claimant's submission of a hearing request. The request provided as follows:

Requested information from my case worker regarding dental, [and] didn't receive any replys [sic]. Informed my case worker to the fact that I didn't receive proper food stamp benefits over a lengthy period of time [and] didn't receive any replys [sic]. Informed my case worker regarding State [SSP] check benefits which I didn't receive [and] didn't receive any replys [sic]. [Claimant's hearing request, dated June 8, 2011.]

First, Claimant's dispute regarding dental care appeared to fall under his MA program benefits. However, neither party provided any evidence establishing that the Department took any negative action or rendered any incorrect, erroneous, or otherwise improper decision regarding Claimant's MA benefits. Rather, according to Claimant, his only problem pertained to the time of day he could make himself available for dental care. Claimant provided no authority or evidence reasonably leading to a conclusion that this situation rose to the level of a negative action by the Department. Moreover, the agency provided credible testimony that it offered Claimant a list of local dentists who could offer him dental care.

Second, Claimant's dispute regarding his SSP payments was not over the amount, but rather that he did not receive all the payments due him, or that the payments were not always received in a timely fashion. Based on the testimony and other evidence offered in this case, it appeared that this problem was due to Claimant's frequent change in mailing addresses. Documentation submitted by the Department demonstrated that numerous SSP checks sent to Claimant were returned to the agency as undeliverable. Many were reissued and again returned. Interestingly, however, SSP checks issued for the period January 1, 2011, through June 30, 2011, were received and cashed. According to the agency, it was inquiring whether any of the checks returned and never cashed could be reissued to Claimant. Regarding this issue, Claimant again failed to establish that his dispute concerning SSP payments was the result of any negative, incorrect, erroneous, or otherwise improper action taken by the Department.

Regarding Claimant's FAP benefits dispute, he contended to have been "deprived" of such benefits "from 2002 until now." (Department's Exhibit D-1, pp. 6, 8, 12, 13.) His contention is without merit.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in the Code of Federal Regulations (CFR), 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules

400.3001 through 400.3015. Agency policies pertaining to the FAP for the period in issue are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p 1.

Here, the Department provided credible documentation demonstrating Claimant's FAP benefits history since December 2002 – ostensibly when he first applied for benefits. (See Department's Exhibit D-15.) This evidence sufficiently established that Claimant received FAP benefits, albeit in various amounts, in 2002, 2003, 2004, 2005, 2006, 2010, and 2011. From October 1, 2010, through June 1, 2011, Claimant was receiving FAP benefits in the amount of [REDACTED] per month. Because of a change in the amount of SSI received by Claimant, his FAP benefits were increased to [REDACTED] per month, effective July 1, 2011. There was simply no evidence provided by either party indicating that Claimant was deprived of FAP benefits or that Claimant's monthly allotments were incorrect, in error, or otherwise improper at any point during his eligibility for such benefits.

It is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996). Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

In light of the totality of the testimony and other evidence, it is concluded that there was no action taken by the Department in this matter that was contrary to agency policy as derived from the federal statutes and regulations cited above.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department acted in accordance with established policy when it increased Claimant's FAP benefits to [REDACTED] per month, effective July 1, 2011.

The Department's action is UPHELD.

It is SO ORDERED

Moreover, the Administrative Law Judge decides that the Department undertook no negative, incorrect, erroneous, or otherwise improper action concerning Claimant's MA benefits or SSP payments in this matter.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 20, 2011

Date Mailed: July 20, 2011

NOTICE: Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent resides or has his or her principal place of business in this State, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the above mailing date, may order a rehearing.

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