

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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. After due notice, an in-person hearing was held on [REDACTED]. Claimant personally appeared and testified under oath.

The department was represented by Sheldon Kinney.

ISSUE

- (1) Did claimant file a timely hearing request to dispute the denial of her [REDACTED] application?
- (2) Did DHS correctly deny claimant's FIP application because claimant did not meet the FIP eligibility requirements and claimant did not formally request FIP benefits for her grand-daughter on the [REDACTED]

FINDINGS OF FACT

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

- (1) In [REDACTED] claimant was acting as a [REDACTED] for her grand-daughter [REDACTED]
- (2) On [REDACTED], claimant completed the [REDACTED]. Claimant requested FIP benefits for herself. She thought she was requesting FIP-Ineligible Grant C benefits for her grand-daughter.

- (3) Section "C-Line 1" states:
"Answers for all persons in your household, everyone living in your home"
- (4) Claimant did not list JDP as a person as "person #2 " in section "C" of the DHS 1171.
- (5) On [REDACTED], claimant's DHS 1171 was filed with [REDACTED]. Claimant gave her application to a services worker who, in-turn, delivered it to an [REDACTED].
- (6) On [REDACTED], the [REDACTED] denied claimant's FIP application because claimant did not report her grand-daughter as a dependent child on the [REDACTED].
- (7) On [REDACTED], [REDACTED] denied claimant's FIP application due to claimant's failure to meet the eligibility requirements
- (8) Also on [REDACTED], [REDACTED] sent claimant a denial notice from [REDACTED]. The [REDACTED] states impertinent part, on page 3:

"Right to Administrative Hearing":

You may request a hearing within 90 days of the date of this notice if you disagree with an action described in this notice or think that it is incorrect.

"Food Assistance, you may request a hearing in writing by telephone. Hearing request for all the programs must be made in writing by you or your authorized representative".

- (9) On [REDACTED], claimant requested a hearing. Claimant's request was not timely filed. The hearing request was received [REDACTED] after the notice was mailed.

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 or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The [REDACTED] 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 (DHS or department) 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 [REDACTED]. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Current FIP eligibility requirements are found in PEM/BEM 210, 214 and 630.

ISSUE #1

The Administrative Law Judge has jurisdiction to hold hearings only on matters which are challenged in a timely fashion. Under current policy, a request to challenge a denial notice issued by the department must be made within [REDACTED] of the mail date of that notice.

Since claimant was probably notified of the department's [REDACTED] hearing request rule, and since her hearing request was filed [REDACTED] after the negative action notice was issued, claimant's hearing request is untimely.

Therefore, the Administrative Law Judge does not have authority to conduct a hearing on this matter.

ISSUE #2

Administrative Law Judge does not have authority to conduct a hearing on the merits raised by claimant in her hearing request because it was not filed timely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's FIP application based on claimant's failure to allege that she had a minor child in her home on the date of the application.

The Administrative Law Judge is not able to consider the merits raised in claimant's hearing request because she did not file a timely hearing request.

Therefore the department's actions are, hereby, AFFIRMED.

/s/

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Date Signed: 4/5/11

Date Mailed: 4/5/11

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 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.

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