

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.: 2011-9618
Issue No.: 1015/2006/3014
Case No.: [REDACTED]
Hearing Date: January 6, 2011
Macomb County DHS (12)

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 January 6, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly calculated Claimant's group composition concerning Claimant's ongoing Food Assistance Program (FAP) benefits.
2. Whether DHS properly counted court ordered child support as voluntarily paid child support in calculation of Claimant's Family Independence Program (FIP) benefits.
3. Whether DHS properly terminated Claimant's Medical Assistance (MA) benefits due to Claimant's failure to return redetermination documents.

FINDINGS OF FACT

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

1. Claimant was an ongoing FIP, FAP and MA program recipient.
2. Claimant was part of a household that included her child [REDACTED] (DOB 8/28/90).
3. On 6/25/10, Claimant reported to DHS that [REDACTED] left her household.

4. DHS issued FAP benefits to Claimant for 8/2010 and future months which included Spencer as a household member and [REDACTED] income as part of Claimant's FAP benefit group's income.
5. DHS issued FIP benefits to Claimant for 8/2010 and future months which included \$290.77 in voluntary child support income which reduced Claimant's FIP benefits from a maximum of \$403/month to \$142.86/month.
6. Claimant's child support was court ordered child support, not voluntary child support.
7. On an unspecified date, DHS mailed redetermination documents to Claimant concerning Claimant's MA benefits.
8. Claimant failed to timely return the redetermination documents.
9. DHS terminated Claimant's MA benefits effective 12/2010.
10. On 12/1/10, claimant requested a hearing disputing the MA benefit termination and Claimant's FAP and FIP benefit issuances since 8/2010.

CONCLUSIONS OF LAW

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 MCL 400.10, *et seq.*, and MAC R 400.3001-3015. 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).

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

In the present case, Claimant requested a hearing on 12/1/10. Claimant is disputing her FIP and FAP benefit issuances since 8/2010. Claimant contends that she would have requested a hearing sooner than 12/1/10 if DHS had returned her telephone calls requesting an explanation concerning her benefit issuances. Claimant's contention has no impact on whether Claimant timely requested a hearing. DHS regulations make no exceptions for the 90 days time period in which a hearing request must be made. It is found that Claimant's administrative remedies are limited by the submission date of her hearing request.

Based on a 12/1/10 hearing request, Claimant is entitled to administrative evaluation of all DHS actions noticed in the 90 days prior to 12/1/10. It was not in dispute that Claimant would have received notices of case actions concerning 8/2010 and prior months before the 90th day prior to her hearing request; thus, the undersigned will not make any findings concerning Claimant's FIP and FAP benefits from 8/2010 or prior. Claimant may have received a notice of her 9/2010 FIP and FAP benefit issuance prior to 90 days before 12/1/10, though no evidence was submitted concerning this. The undersigned is inclined to consider 9/2010 as part of this administrative decision as it was not established that Claimant was untimely in her hearing request. Thus, the undersigned will evaluate Claimant's FIP and FAP benefits for 9/2010-12/2010

When a member leaves a group to apply on his own or to join another group, DHS specialists are directed to do a member delete in the month they learn of the application/member add. BEM 212 at 7. If the deleted member decreases benefits, adequate notice is allowed. *Id.*

It was not disputed that on 6/25/10, Claimant reported that her child, Spencer, left Claimant's household decreasing Claimant's household size to two members. DHS should have removed Spencer as a FAP group member to affect Claimant's FAP benefits for 7/2010. DHS did not process the change and continued to issue FAP benefits to Claimant as a three person FAP group which also included Spencer's income. Though it is not known whether Claimant is entitled to a FAP benefit supplement due to the error, it is known that DHS erred in determining Claimant's FAP benefits since 7/2010. The below Decision and Order reflects an expected recalculation of Claimant's FAP benefits since 9/2010 due to the lack of timeliness of Claimant's hearing request.

Certified support means court-ordered support payments sent to the DHS by the Michigan State Disbursement Unit. BEM 518 at 1. Bridges excludes from the deficit test the amount of collections retained by the DHS. *Id.*

Voluntary and direct child support are countable in the eligibility determination. *Id.* at 2. At application Bridges excludes up to \$50 received from either in the benefit month. Ongoing FIP eligibility determination does not exclude \$50. *Id.*

It was not disputed that DHS calculated Claimant's FIP benefits since at least 8/2010 by counting Claimant's court ordered child support income as "voluntary support". This error is significant as DHS policy deducts voluntary child support (after the first \$50/month) from Claimant's maximum monthly FIP benefit issuance. For court ordered child support, DHS does not reduce a client's FIP benefit grant; instead, DHS retains the child support so there is no reason for DHS to count the support as income for Claimant's FIP benefit group.

DHS conceded that Claimant's child support was court ordered and not voluntary support. It is found that DHS improperly calculated Claimant's FIP benefits by reducing Claimant's FIP benefits by improperly categorizing Claimant's court-ordered child support as voluntary child support. As was the case with Claimant's FAP benefits, Claimant's administrative remedy is restricted to recalculation of benefits back to 9/2010 due to the untimeliness of Claimant's hearing request.

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 (formerly known as the Family Independence Agency) 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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The MA benefit redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.* at 4. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination vary based on the program scheduled for review though a DHS-1010 (Redetermination) is an acceptable form for MA benefit redeterminations. Failure by a client to submit any of the needed documents during the benefits period results in denial of the redetermination and case closure. *Id.*

In the present case, Claimant did not dispute that DHS mailed the Redetermination. Claimant also conceded that she did not return it to DHS. As Claimant failed to return a

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required redetermination document to DHS, it is found that DHS properly terminated Claimant's ongoing MA benefits effective 12/2010.

As discussed during the hearing, Claimant may reapply for MA benefits at any time. If Claimant had any unpaid expenses since the termination, Claimant may seek retroactive MA benefits for up to three full months from the date of her yet to be submitted MA benefit application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA benefits due to Claimant's failure to timely return a required redetermination document. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FIP and FAP benefits since at least 9/2010. It is ordered that DHS redetermine Claimant's FAP benefits since 9/2010 and to exclude Claimant's son, Spencer, as a group member. It is also ordered that DHS redetermine Claimant's FIP benefits since 9/2010 by counting Claimant's child support as court ordered and not voluntary support. DHS shall supplement Claimant for any FIP and FAP benefits owed to Claimant based on the previously incorrect DHS determinations. The actions taken by DHS are PARTIALLY REVERSED.



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

Date Signed: 1/25/2011

Date Mailed: 1/25/2011

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 60 days of the filing of the original request.

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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.

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