

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-26517

Issue No: 3003

Case No:

[REDACTED]
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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, a telephone hearing was held on May 10, 2012. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA)?

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 December 17, 2011, Claimant requested a hearing regarding FAP, FIP and MA benefits.
2. On or about January 24, 2012, the Department prepared a 13 (thirteen) page hearing packet which consisted of the following: Hearing Summary (DHS-3050), Notice of Case Action (DHS-1605) pages 1 & 4 dated December 17, 2011, the Claimant's request for hearing, Bridges Unearned Income Budget Summary and Bridges Eligibility Summary.
3. The DHS-3050 indicated FAP benefits were reduced and then noted, "RSDI Unearned Income increased from [REDACTED] to [REDACTED]. FAP decreased from [REDACTED]." The DHS-3050 did not mention FIP or MA.
4. The DHS-1605 provided in the packet (which consisted of only one page) indicated that Claimant's monthly FAP had decreased to [REDACTED] effective for the period of January 1, 2012 through October 31, 2012.

5. The Department did not provide any SOLQs, wage matches, paystubs or any other documentation in the hearing packet to verify Claimant's income or any other objective evidence to show how the Department made its calculations.

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify: (1) the action being taken by the department; (2) the reason(s) for the action; (3) the specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: (1) denial of an application and/or supplemental payments; (2) reduction in the amount of program benefits or service; (3) suspension or termination of program benefits or service; (4) restrictions under which benefits or services are provided; (5) delay of any action beyond standards of promptness and (6) for FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include **all** of the following: (1) clear statement of the case action, including all programs involved in the case action; (2) facts which led to the action; (3) policy which supported the action; (4) correct address of the AHR or, if none, the client; and (4) description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings, are instructed to always include the following in planning the case presentation: (1) an explanation of the

action(s) taken; (2) a summary of the policy or laws used to determine that the action taken was correct; (3) any clarifications by central office staff of the policy or laws used; (4) the facts which led to the conclusion that the policy is relevant to the disputed case action; (5) the DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BEM 600.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

Claimant's request for a hearing in the instant matter concerns the following programs: the Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance or Medicaid (MA) program. These programs are summarized below.

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 Department of Human Services (DHS or department) 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 Program Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

In the instant matter, the department has failed to clearly communicate to this Administrative Law Judge the precise nature of the department's actions. The department's Hearing Summary (DHS-3050) does not comply with the requirements set forth in BAM 600 as it does not contain a clear statement of the case action or facts which led to the action. BAM 600. Rather, the DHS-3050 simply makes conclusory claims that Claimant's FAP decreased due to an increase in RSDI unearned income. A review of the hearing packet reveals that many salient documents were missing. Unfortunately, the DHS-3050 did not provide any insight regarding the relevant department action giving rise to Claimant's hearing request. This DHS-3050 is far too terse to effectively convey the department's action affecting Claimant's benefits. During

the hearing, the department representative was unable to clearly and succinctly articulate the nature of the department's actions giving rise to the request for a hearing.

Although the hearing packet was not devoid of records, none of the records contained in the hearing packet demonstrated Claimant's income which would explain the rationale behind the department's decision to decrease benefits. Moreover, there were no documents that mentioned Claimant's FIP or MA. The department representative who participated in the hearing was unable to answer these questions.

Based on the lack of documentation and the inability of the department representatives to explain the department action, this Administrative Law Judge is unable to make a reasoned, informed decision. Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the department followed policy as required under BAM 600.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP and MA eligibility, including MA deductible amounts.

Therefore, the department's determinations are REVERSED and the department is hereby instructed to do the following:

- Redetermine Claimant's eligibility for FAP, FIP and MA benefits back to November, 2011 and conduct a comprehensive recalculation of the above-mentioned benefits including:
 - Determination of Claimant's eligibility for medical transportation payments,
 - Determination and verification of all Claimant's earned and unearned income,

The department shall also issue any retroactive benefits that Claimant is entitled to receive.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/21/12

Date Mailed: 5/22/12

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.

CAP/ds

■ [REDACTED]