

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

IN THE MATTER OF:



Reg. No: 201236536
Issue No: 3014, 1017
Case No: [REDACTED]
Hearing Date: April 18, 2012
Montcalm County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 April 18, 2012. The claimant appeared and provided testimony.

ISSUES

1. Did the department properly add the claimant's son to her group for purposes of determining the amount of her Food Assistance Program (FAP) benefits?
2. Did the department properly deny the claimant's Family Independence Program (FIP) application due to her group exceeding the income limit for the 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. The claimant was a recipient of FAP benefits at all times pertinent to this hearing.
2. On January 18, 2012, the claimant submitted an application for FIP benefits.
3. The claimant's son was added to her FAP case which resulted in an increase in benefits for the month of March, 2012. (Department Exhibit 1).
4. On February 13, 2012, the department sent the claimant a notice of case action stating that her FIP application had been denied and that her FAP benefits would be increasing as of March 1, 2012. (Department Exhibit 1).

5. The claimant filed a request for hearing on February 22, 2012 protesting the denial of her FIP application and the date that her son was added to her FAP case.

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)

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015.

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 (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 October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

For purposes of establishing group composition and eligibility for FAP benefits, department policy provides that parents and their children under 22 years of age who live with them are considered part of the same FAP group. BEM 212. For purposes of establishing group composition and eligibility for MA benefits, department policy provides that only persons living with one another can be in the same group. BEM 211. To "live with" means to share a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. BEM 211, BEM 212. A person who is temporarily absent from the FAP or MA group is considered living with the group so long as:

- His location is known; and
- He lived with the group before his absence; and
- There is a definite plan for his return; and

- The absence has lasted or is expected to last 30 days or less (unless the absent person is in the hospital and there is a plan for him to return home, in which case the absence may last longer than 30 days). BEM 211, BEM 212.

BEM 212 states that a member add that increases benefits affects the month after the change is reported or if the member left another group, the month after that member is deleted from the other group. In the case at hand, the department representative testified that the claimant's son should have been added to her group to affect the month of February, 2012. Accordingly, the Administrative Law Judge finds that the claimant's son should have been added to her group to affect the month of February, 2012.

The claimant also contests the department's denial of her FIP application. The department denied the claimant's FIP application because her group was over the income limit. BEM 210 states that countable income and assets of certified group members must be considered in determining FIP eligibility. The department is to convert fluctuating income into a standard monthly amount. BEM 505. In determining this calculation, the department is to multiply amounts received every two weeks by 2.15. BEM 505.

In this case, the claimant submitted documentation showing her son's biweekly income in the form of two paychecks. When the gross pay from those checks is averaged and multiplied by 2.15, the result is a monthly amount of [REDACTED]. The department acted properly in accordance with policy in calculating this amount. Based on the monthly income amount of [REDACTED], the department deducted a standard [REDACTED] from this amount and then an additional 20% of the remaining amount as per policy in BEM 518. The amount remaining was [REDACTED]. This amount exceeds the payment standard of [REDACTED] for an ineligible grantee as found in RFT 210. The claimant is not an eligible grantee and cannot be considered in the FIP certified group because she is an SSI recipient. BEM 210. Accordingly, the Administrative law Judge determines that the department did properly calculate the claimant's budget and did properly determine income eligibility for FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly include the claimant's son in her FAP group for the month of February, 2012. Additionally, the Administrative Law Judge decides that the department did properly deny the claimant's application for FIP benefits.

Accordingly, the department's denial of the claimant's FIP application is **AFFIRMED**. It is SO ORDERED.

Additionally, the department's FAP actions are REVERSED.

It is HEREBY ORDERED that:

The department shall recalculate the claimant's FAP benefits for the month of February, 2012 to include the claimant's son in her group composition. If applicable, the department shall issue any past due benefits due and owing that the claimant may otherwise be eligible to receive.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 27, 2012

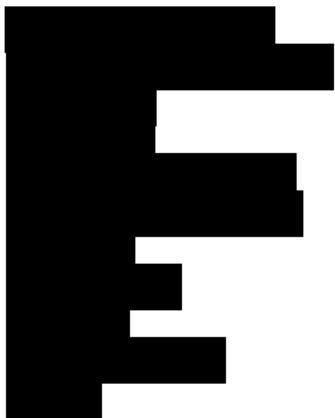
Date Mailed: April 27, 2012

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.

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