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

IN THE MATTER OF:



Reg. No.: 201246707

Issue No.: 3023

Case No.:

Hearing Date: May 16, 2012 County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on May 16, 2012, from Detroit, Mich igan. Participants on behalf of Claimant included Claim ant. Participants on behalf of the Department of Human Services (Department) included

Manager, and

JET worker.

<u>ISSUE</u>

Did the Department properly comply wit hithe Hearing Decision signed by the Administrative Law Judge (ALJ) of the Michigan Administrative Hearing System (MAHS) on April 11, 2012, concerning Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

- On April 10, 2012, MAHS held a hearing in response to Claimant's request for a hearing to dispute the Department's failure to process her redetermination for FAP benefits.
- In the Hearing Decision mailed on April 11, 2012, the ALJ reversed the Department and order ed the Department to "initiate a redetermination as to the Claimant's eligibility for FAP ben efits beginning March 1, 2012 and issue retroactive benefits if otherwise eligible and qualified."
- 3. On April 16, 2012, Claimant filed a request for hearing, a lleging that the Department had failed to comply with the ALJ's April 11, 2012, Hearing Decision.

CONCLUSIONS OF LAW

Department policies are contained in the Br idges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).
☐ The Family Independence Program (FIP) was established purs uant to the Personal Responsibility and W ork Opportunity Reconc iliation Act of 1996, Public Law 104-193, 42 USC 601, et seq. The Department (formerly k nown as the Family Independence Agency) administers FIP pursuant to MCL 400.10, et seq., and Mich Admin Code, R 400.3101 t hrough R 400.3131. FI P replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.
∑ The Food Assistanc e Program (FAP) [fo rmerly known as the Food Sta mp (FS) program] is establis hed by the Food Stamp Act of 1977, as amend ed, and is implemented by the federal r egulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independenc e Agency) administers FAP pursuant to MCL 400.10, et seq., and Mich Admin Code, R 400.3001 through R 400.3015.
☐ The Medical Ass istance (MA) program is es tablished by the Title XIX of the Soc ial 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 Independ ence Agency) administers the MA pr ogram pursuant to MCL 400.10, et seq., and MC L 400.105.
☐ The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, <i>et seq</i> .
☐ The State Disabilit y Assistance (SDA) program, which provides financial ass istance for disabled persons, is established by 2004 PA 344. The D epartment of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and 2000 AACS, R 400.3 151 through R 400.3180.
☐ The Child Development and Care (CDC) program is establis hed by Titles IVA, IVE and XX of the Soc ial Security Act, the Child Care and Developm ent Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Fede ral Regulations, Parts 98 and 99. The Depart ment provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, in connection with a prior hearing held on April 10, 2012, to address Claimant's contention that the Department had improperly closed her FAP case, the ALJ reversed the Department. On April 16, 2012, Claimant requested a hearing, contending

that the Department had failed to reinstate her FAP ca se and issue supplements in compliance with the ALJ's April 11, 2012, order.

Although the April 11, 2012, H earing Decision issued in c onnection with the April 10, 2012 hearing was not admitted in to evidence in the curr ent May 16, 2012, hearing, judical notice of the Decision is taken. In the Decision, the ALJ ordered the Department to "initiate a redetermination as to the Claimant's eligibil ity for F AP benefits beginning March 1, 2012 and issue retroactive benefits if otherwise eligible and qualified."

At the hearing, the De partment testified that, after the April 11, 2012, Hearing Dec ision was received, it reinstated Claimant's case as of March 1, 2 012, and began processing Claimant's redetermination. The Department is required to complete redeterminations in 30 days. BAM 210. In this case, the De partment could not verify the date it received the Hearing Decision from MAHS but testified that it completed the redetermination on April 19, 2012, and certified it on May 14, 2012.

While the Department may hav e improper ly delayed the processing of Claimant's redetermination, the Department credibly testified that it did process the redetermination and concluded that Claimant was not eligible for FAP benefits because her net income exceeded the FAP net income limit for a group size of three. Because the April 11, 2011, Hearing Decision required that the Department process the redetermination and issue retroactive benefits to Claimant "if otherwise eligible and qualified," the Department acted in accordance with the Hearing Decision and Department policy (BAM 210; BAM 406; BAM 600) when it failed to issue retroactive benefits upon finding that Claimant was not eligible to receive such benefits.

At the hearing, the Department testified that it sent CI aimant a May 14, 2012 Notice of Case Action adv ising her that she was not eligible for FAP benefits becaus e her net income exceeded the net income limits f or FAP eligibility for a group s ize of three, further explaining that Claimant's daughter had been removed fr om the FAP group because s he was a student and did not meet any of the FAP eligibility criteria for students under BEM 245. Claimant testified that she had not yet received the Notice of Case Action. Claimant was advised that she could request a separate hearing to dispute the Department's action finding her ineligible for FAP benefits. She was also advised that she could reapply for FAP be nefits at anytime and the Department would process her application based on her circumstances at the time of application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions
of Law, and for the reasons stated on the record, finds that the Department
did act properly when it processed Claimant's FAP redetermination in accordance
with the ALJ's April 11, 2012 order.
did not act properly when

Accordingly, the Depar tment's decision is \square AFFIRMED \square REVERSED for the reasons stated on the record and above.

Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 22, 2012

Date Mailed: May 22, 2012

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Re consideration/Rehearing Request P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc: