

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-6018
Issue No: 2001, 3000
Case No: [REDACTED]
Hearing Date: December 7, 2011
County: Lapeer

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 3, 2011 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the department properly determine Claimant's Food Assistance Program (FAP) and Adult Medical Program (AMP) benefits?

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 active for FAP benefits in September, 2011.
2. On September 27, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed her AMP and FAP benefits effective October 1, 2011. (Department Exhibit 3).
3. With regard to the AMP closure, the DHS-1605 indicated, "We are unable to determine your eligibility for the Adult Medical Program because the program is closed to new enrollments at the time." (Department Exhibit 3).
4. The DHS-1605 also indicated that Claimant's AMP was closed because she is "not under 21, pregnant, or a caretaker of a minor child in your home. You are not over 65 (aged), blind or disabled." (Department Exhibit 3).

5. The DHS-1605 provided that Claimant's FAP would be closed due to excess assets. (Department Exhibit 3).
6. On October 3, 2011, Claimant submitted a hearing request contesting the closure of her FAP and AMP benefits. (Request for a Hearing).
7. The Department's Hearing Summary indicated the following: "FAP closure certified 9-27-11, excess assets. AMP denied due to the program is closed to new enrollments at this time. Client address G2C in her hearing request and this is pending scrutiny by Local Office Expert as the pending closure reason is incorrect, verification has been received. This closure has not been certified and is still pending." (Hearing Summary).
8. The Department's hearing packet contained a Bridges FAP Assets sheet which concluded that Claimant had total assets in the amount of [REDACTED] of liquid assets and trust assets in the amount of [REDACTED]. (Department Exhibit 1).
9. The Department did not attach any verification documents pertaining to Claimant's assets. (Hearing Packet).

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 Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- 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:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- 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:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

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 appears to concern the following two programs: the Food Assistance Program (FAP) and the Adult Medical Program (AMP) 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 Adult Medical Program (AMP) is available to individuals who meet all the eligibility factors in BEM 640. Certain aliens are limited to coverage of emergency services (ESO). BEM 640. Income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640. The AMP income limits are identified in RFT 236. When the client's living arrangement changes during a month, the department uses the living arrangement with the higher income limit. BEM 640. Only countable income is used. BEM 640. Countable income is income remaining after applying AMP policy in BEM 500, 501, 502, 503, 504. BEM 640.

Specialists must send or give the client a DHS-283, Adult Medical Program Eligibility Notice to inform them of the freeze. BEM 640. Policy indicates that applications received during the freeze on AMP enrollments must be registered and denied using "applicant did not meet other eligibility requirements" as the denial reason. BEM 640.

In the instant matter, the issue appears to concern the Department's decision to close Claimant's FAP due to excess assets and the AMP due to an enrollment freeze. However, the Department has failed to clearly communicate to this Administrative Law Judge the precise nature of the department's actions making it impossible to make a reasoned, informed decision or to provide the Claimant with a fair hearing. Although the hearing summary indicates that the FAP closure was due to excess assets, the summary also makes reference to Claimant's Medicaid G2C in her hearing request and "this is pending scrutiny by Local Office Expert as the pending closure reason is incorrect, verification has been received." Then, the hearing summary provides, "This closure has not been certified and is still pending." Unfortunately, the hearing packet did not contain any additional documentation that could serve as a roadmap regarding Department action relative to Claimant's FAP and/or Medicaid (AMP) benefits. Contrary to BAM 600, the Hearing Summary (DHS-3050) in the instant matter did not include a clear statement of the case action or facts which led to the action. BAM 600.

Although the Department included a Bridges FAP Asset sheet in the hearing packet, this document is insufficient to prove Claimant has excess assets. The Department did not include any verification documentation to establish Claimant's assets or the value of these assets that would support the Department's decision in this matter. Rather, the hearing summary and attached documents created more questions than provided answers. During the hearing, the Department representative could not clearly and succinctly articulate the nature of the Department's actions giving rise to the request for a hearing.

With regard to the Department's decision to close Claimant's case due to excess assets, the hearing packet did not effectively shed light on the precise issues in

controversy nor did they explain the rationale behind the Department's actions. The Department representative did not confirm whether policy required verification in this instance. For example, the Department representative could not say whether verification was not required due to Claimant's own statement regarding her assets and their value. See BEM 400. As previously stated, the hearing record was devoid of any verification of Claimant's assets. The file did not contain a DHS-20 (Verification of Assets) nor did it contain any other reliable document to show Claimant's assets or value.

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 or AMP eligibility.

Therefore, the Department's determinations are REVERSED and the department is hereby instructed to redetermine Claimant's eligibility for FAP, MA and AMP benefits back to the date of closure (October 1, 2011) and conduct a comprehensive recalculation of the above-mentioned benefits including verification of Claimant's countable assets and their value in accordance with policy.

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: 12/13/11

Date Mailed: 12/13/11

2011-6018/CAP

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]