

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

IN THE MATTER OF:



Reg. No: 201221557
Issue No: 1005, 6015, 3002
Case No: [REDACTED]
Hearing Date: February 2, 2012
Kent 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 the claimant's request for a hearing. After due notice, a telephone hearing was held on February 2, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly denied the claimant's applications for Family Independence Program (FIP) benefits and Child Development and Care (CDC) benefits for failure to cooperate with the application process?
2. Whether the department properly calculated the claimant's allotment of Food Assistance Program (FAP) 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 has been a recipient of Food Assistance Program (FAP) benefits during all times relevant to this hearing.
2. On November 29, 2011, the claimant submitted an application (DHS 1171) for FIP, CDC, MA, and FAP benefits. (Department Exhibits 3-22).
3. As a result of the application, the department sent the claimant an, appointment notice (DHS 170) on December 7, 2011, scheduling an interview for December 14, 2011 at 11:00 AM as part of the application process. (Department Exhibit 24).

4. The claimant did not attend the scheduled interview.
5. On December 14, 2011, the department sent the claimant an application notice (DHS 1150) stating that her application for CDC and FIP benefits had been denied as a result of the claimant's failure to attend the scheduled interview. (Department Exhibits 25-26).
6. The claimant continued to receive FAP benefits but the allotment was not increased.
7. The claimant filed a request for hearing on December 21, 2011 protesting the denial of her CDC and FIP applications as well as the amount of her FAP allotment.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant had initially stated on her hearing request that she was also requesting a hearing regarding Medical Assistance (MA) benefits. However, prior to the closure of the hearing record, the claimant stated that she did not wish to proceed forward with the portion of her hearing pertaining to the MA request because the department had since approved her MA application and she was provided coverage back to the month of application. Therefore, it is not necessary for the Administrative Law Judge to make a ruling on the MA issue.

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 affecting eligibility or 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. BAM 600.

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 Bridges Reference Manual (BRM).

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development 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 Federal Regulations, Parts 98 and 99. The

Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges 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, 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).

When a claimant submits an application for assistance, policy directs that an interview be conducted as part of the application process. BAM 115. Policy states that a single interview may be conducted for an application requesting assistance through more than one program. BAM 115. Policy further directs that if a claimant refuses to cooperate with the application process, including the interview, the claimant's application is to be denied. BAM 115.

In the case at hand, the claimant applied for FIP and CDC benefits by way of a DHA 1171. The claimant did not attend the interview that was scheduled for her and in turn, her application was denied. The claimant testified at the hearing that she did not receive notice of her interview and that is why she did not attend. The department did provide evidence that the claimant was sent notice of the interview. This issue concerns the mailbox rule. Michigan follows the common law presumption that a letter mailed is presumed received by the addressee. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. Accordingly, because there was no evidence presented to rebut the presumption that the appointment letter was received, the claimant's assertion that she did not receive the letter cannot stand as an excuse for missing the application interview. The department therefore acted properly in accordance with policy in denying the claimant's application for FIP and CDC benefits due to failure to cooperate with the application process.

In relation to the FAP issue, the claimant contends that her FAP allotment should have increased due to her children being returned to her home. At the hearing the claimant testified that the number of overnights she had with her children had increased to the point that she was having them more than 50% of the time per month. In December, the children were returned to live with her permanently. The claimant asserts that the department should have increased her FAP allotment when the children began spending more than 50% of the time at her home. However, the claimant did also testify that she did not tell the department that the children were spending that many

overnights at her home. Additionally, on the claimant's application (DHS 1171) of November 29, 2011, she did not indicate the number of overnights that the children were spending with her in the space provided (see Department Exhibits 7-11). Therefore the department had no way of knowing the living situations of the children in question and therefore acted properly in not including them in the claimant's budget for purposes of calculating FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's application for CDC and FIP benefits and properly determined the claimant's FAP benefit allotment.

Accordingly, the department's actions are **AFFIRMED**. IT IS SO ORDERED.

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

Date Signed: February 7, 2012

Date Mailed: February 8, 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 90 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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