

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

IN THE MATTER OF:



Reg. No.: 20123460
Issue No.: 6031
Case No.: [REDACTED]
Hearing Date: January 23, 2012
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 23, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

The issue is whether DHS properly denied a request by Claimant for Employment Support Services (ESS) in the form of new tires for her vehicle.

FINDINGS OF FACT

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

1. Claimant was an ongoing benefit recipient.
2. Claimant was an employed individual.
3. On an unspecified date, Claimant sought assistance from DHS concerning new tires for her vehicle.
4. On an unspecified date, Claimant provided DHS with multiple estimates from multiple service providers.

5. On an unspecified date, DHS approved Claimant for the ESS subject to the service provider who gave the lowest estimate agreeing to perform the service based on DHS payment terms.
6. The service provider who gave the lowest estimate eventually refused to agree to the DHS payment terms.
7. Following refusal by the service provider to install the tires, DHS then evaluated payment to the service provider who gave the second lowest estimate.
8. At some point during the evaluation of ESS based on the second lowest estimate, Claimant lost her employment.
9. On an unspecified date, DHS denied Claimant's ESS based on Claimant's failure to meet the employment requirements for ESS.
10. On 9/22/11, Claimant requested a hearing to dispute the denial of ESS

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

Department of Human Services (DHS) assists families to achieve self-sufficiency. BEM 232 at 1. The primary avenue to self-sufficiency is employment. *Id.* DHS and the work participation program provide Direct Support Services (DSS) to help families become self-sufficient. *Id.* Direct Support Services (DSS) are goods and services provided to help families achieve self-sufficiency. *Id.*

There is no entitlement for DSS. *Id.* The decision to authorize DSS is within the discretion of the DHS or the work participation program. *Id.*

Employment support services (ESS) are included within DSS. *Id.* ESS include, but are not limited to, transportation, special clothing, tools, physical exams, vehicle purchases and vehicle repair.

ESS are approved, in part, through receipt of DHS benefit programs. It is presumed that Claimant's ESS request was based on receipt of FAP benefits for her family.

A vehicle may be repaired for a currently employed client if the client needs a vehicle to accept a verified offer of a better job or needs a vehicle to retain current employment; and has a demonstrated ability to maintain a job. *Id.* at 12. A vehicle may be repaired for a client who is not currently employed if the client needs a vehicle to accept a verified job offer; or needs a vehicle to participate in family self-sufficiency activities that will prepare the client for employment. *Id.*

In the present case, DHS initially approved Claimant for the purchase and installation of tires. At the time of the approval, Claimant was employed and all that needed to be done was for the service provider to accept the DHS payment terms.

DHS typically sends a provider a payment voucher to assure payment; upon receipt of the voucher, the provider is expected to perform the relevant service while the actual payment is mailed after a client verifies completion of the service. In the present case, the original provider eventually refused to perform the service based on the DHS payment terms. DHS was willing to consider a second and higher estimate for the tire installation, but by the time DHS considered the estimate Claimant was no longer employed.

Claimant testified that she was technically employed at the time of the DHS denial. Claimant's testimony concerning this issue was half-hearted. DHS provided persuasive testimony that Claimant reported that she was not employed immediately prior to the ESS denial.

Claimant reasonably questioned how she could be approved for ESS and then later denied after a service provider refused to agree to DHS payment terms. Claimant was also understandably irritated over the passage of time that her approval took; the evidence tended to show that an approximate 2-3 month period elapsed from the time Claimant was originally approved through the time that DHS denied the service due to Claimant's lack of employment. Despite Claimant's legitimate concerns, the bottom line is that DHS has broad discretion to approve DSS because DSS is not an entitlement program. The evidence showed that DHS could have theoretically done more for Claimant but what was done or not done did not amount to an abuse of discretion by DHS. Accordingly, DHS did not improperly deny DSS to Claimant.

Claimant noted that she became employed shortly after the DHS denial. Nothing within this decision would prevent Claimant from seeking ESS a second time based on her subsequent employment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS did not abuse their discretion by denying DSS/ESS to Claimant. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 25, 2012

Date Mailed: January 25, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (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 **MAY** 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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

20123460/CG

cc:

