

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-53312
Issue No: 3002, 3003
Case No: [REDACTED]
Hearing Date: June 20, 2012
County: Washtenaw

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 upon the claimant's request for a hearing received on May 21, 2012. After due notice, a telephone hearing was held on June 20, 2012. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager).

ISSUES

Whether the department properly determined Claimant's Food Assistance Program (FAP) amounts for April and May, 2012?

FINDINGS OF FACT

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

1. Claimant was receiving FAP with a [REDACTED] monthly allotment in March, 2012.
2. The Department determined that Claimant's monthly FAP would be reduced to [REDACTED] during the months of April and May, 2012.
3. On or about May 21, 2012, Claimant submitted a hearing request to challenge the Department's decision to reduce her FAP amount.
4. The Department provided the Administrative Law Judge with a hearing packet that contained several documents but the record did not contain verifications of all of Claimant's unearned income that was used to calculate the reduction in Claimant's FAP benefits.
5. The hearing summary indicated that the Department made a child support error and then later corrected the error, but the documents in the hearing

packet was unclear as they did not support the statements made in the hearing summary.

6. The Department representative who attended the hearing did not prepare the hearing packet and was unable to answer the Administrative Law Judge's questions regarding unearned income verifications and child support income issues.
7. The hearing packet did not contain documentation to show how the Department determined that Claimant's FAP should be reduced in April and May of 2012.

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 application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify: (1) the action being taken by the department; (2) the reason(s) for the action; (3) the specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: (1) denial of an application and/or supplemental payments; (2) reduction in the amount of program benefits or service; (3) suspension or termination of program benefits or service; (4) restrictions under which benefits or services are provided; (5) delay of any action beyond standards of promptness and (6) 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: (1) clear statement of the case action, including all programs involved in the case action; (2) facts which led to the action; (3) policy which supported the action; (4) correct address of the AHR or, if none, the client; and (4) **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: (1) an explanation of the action(s) taken; (2) a summary of the policy or laws used to determine that the action taken was correct; (3) any clarifications by central office staff of the policy or laws used; (4) the facts which led to the conclusion that the policy is relevant to the disputed case action; (5) the DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BEM 600.

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 concerns the Food Assistance Program (FAP) which was formerly known as the Food Stamp (FS) program. The FAP 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).

In the instant matter, the Department has failed to clearly communicate to this Administrative Law Judge the precise nature of the Department's actions. The Department's Hearing Summary (DHS-3050) does not comply with the requirements set forth in BAM 600 as it does not contain a clear statement of the case action or facts which led to the action. BAM 600. More importantly, the evidence relied upon by the Department did not sufficiently explain the rationale behind the Department's decision to reduce the Claimant's monthly FAP during April and May, 2012.

Based on the lack of documentation and the inability of the Department representative to explain the relevant Department action regarding the income used to reduce the FAP benefits during the applicable period (April and May, 2012), this Administrative Law Judge is unable to make a reasoned, informed decision.

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 allotment during April and May, 2012.

Therefore, the Department's FAP determination for April and May, 2012 is REVERSED and the Department is hereby instructed to do the following:

- Redetermine Claimant's eligibility for FAP benefits and conduct a comprehensive recalculation of Claimant's FAP benefits during April, 2012 and May, 2012 including:
 - Determination of Claimant's proper fiscal group size during that period,
 - Determination and verification of all Claimant's unearned income,
 - Determination and verification of Claimant's child support income during the period,
 - Recalculation and proper budgeting of Claimant's past FAP benefits from April, 2012 and May, 2012,
 - Send Claimant correspondence or a DHS-1605 indicating Claimant's FAP for April and May, 2012.
 - In the event Claimant requests a hearing, the Department's hearing summary and hearing packet shall comply with BAM 600 and all relevant verifications, budgets and document shall be numbered and included in the hearing packet.

It is SO ORDERED.

/S/ _____
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/25/12

Date Mailed: 6/25/12

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]