

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

IN THE MATTER OF:



Reg. No: 2012-6141
Issue No: 3000
Case No: [REDACTED]
Hearing Date: December 14, 2011
County: Genesee

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 December 14, 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

Whether the Department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits based on noncooperation with child support?

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 a FAP recipient at all relevant times.
2. On October 10, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605), which closed Claimant's FAP and indicated that Claimant was not eligible for FAP due to non-cooperation with child support requirements. (Department Exhibit 1 & 2).
3. Claimant requested a hearing on October 17, 2011 regarding her October 10, 2011 notice that closed her FAP case. (Request for Hearing)
4. The Department's hearing summary indicated the following: "Also a child support sanction has been placed. This is the second sanction for the same child. Bridges shows client did cooperate when first sanction was placed. Clarification has been requested. Waiting for child support office's response." (Hearing Summary).

5. The Department's hearing packet in this matter did not contain any documentation that provided any details regarding the child support noncooperation.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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).

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.

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Departmental policy provides that parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

Department policy further states that the custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255. Absent parents are required to support their children. BEM 255. Support includes **all** of the following: (1) child support, (2) medical support and (3) payment for medical care from any third party. BEM 255. A parent who does not live with the child due solely to the parent's active duty in a uniformed service of the U.S. is considered to be living in the child's home. BEM 255.

The department's computer system (Bridges) will not restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. BEM 255.

In the instant matter, 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. From the onset, the department's Hearing Summary (DHS-3050) is woefully inadequate. Contrary to BAM 600, the 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. Rather, the DHS-3050 and the entire hearing packet is devoid of factual information sufficient to

show how the Claimant failed to comply with the office of child support. A review of the hearing packet reveals that many salient documents were missing and/or the documents that were present created more questions than it provided answers. Even the department's hearing summary did not provide any insight as to the relevant department action giving rise to Claimant's hearing request. During the hearing, the department representative indicates that she did not know why Claimant's FAP was closed (other than to say it was based on noncooperation with child support). The department did not provide a representative from the office of child support to testify at the hearing nor did the department provide any documentation to explain department action. The department representative could not clearly and succinctly articulate the nature of the department's actions giving rise to the request for a hearing.

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 eligibility.

Accordingly, the department's determinations are REVERSED and the department is hereby instructed to do the following:

- Recalculate Claimant's FAP benefits back to the date of closure.
- Ascertain whether Claimant has any past or present child support noncooperation notices on the department's computer system.
- To the extent Claimant has any noncooperation notices; the Department shall determine whether any noncooperation notices are valid. If any such notices are valid, the department shall promptly send a letter to Claimant indicating the date of non-cooperation, the facts giving rise to the non-cooperation notice and exactly what Claimant must do to have the non-cooperation notice removed. If any of the non-cooperation notices are not valid, the Department shall promptly remove the invalid notices from Claimant's case and issue Claimant any retroactive FAP benefits that she 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: 12/16/11

Date Mailed: 12/16/11

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

