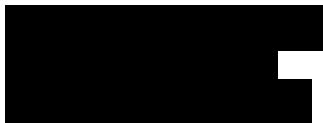


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201275766
Issue No: 1018
Case No: [REDACTED]
Hearing Date: February 13, 2013
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on August 23, 2012. After due notice, a telephone hearing was held on February 13, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Genesee County office.

ISSUE

Whether the department properly denied Claimant's application for Family Independence Program (FIP) benefits due to excess income?

FINDINGS OF FACT

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

1. On July 26, 2012, Claimant applied for FIP benefits, as well as Food Assistance Program (FAP) benefits, State Emergency Relief (SER) assistance, and Medical Assistance (MA). (Department Exhibit A)
2. On July 31, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605) advising her that, effective August 16, 2012, her application for FIP benefits was denied for the reason that her income exceeded the limit for the program. (Department Exhibit B)
3. On August 21, 2012, Claimant requested a hearing contesting the department's denial of her FIP application. (Request for Hearing)
4. The department provided the Administrative Law Judge with a hearing packet that contained the following: Hearing Summary, Claimant's Request for Hearing, Notice of Hearing, July 26, 2012 Assistance Application, and

July 31, 2012 Notice of Case Action. No other documents relating to Claimant's request for hearing were contained in the hearing packet. (Hearing Packet)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affective eligibility for 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 of that decision. BAM 600. 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)

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 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 Reference Tables Manual (RFT).

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:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing on 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.

In the instant case, Claimant requested a hearing regarding the department's denial of her FIP application due to excess income. However, the department failed to provide any explanation in the Hearing Summary for why the department denied Claimant's FIP application. Nor did the department provide any documentation regarding Claimant's FIP budget in the hearing packet.

Moreover, at the February 13, 2013 hearing, the department's representative testified that Claimant's FIP application was denied due to excess income but the department representative could not offer any information regarding Claimant's income or the income limit for the FIP program – and, again, the department representative brought no documentation with her to the hearing regarding the Bridges FIP budget determination. Equally frustrating to this Administrative Law Judge, the department representative indicated that she was essentially asked to represent the department at this hearing at the last minute and that she has no knowledge regarding the case or the file.

Without any additional documentation in the hearing packet and, given the department's representative complete unpreparedness to testify at the hearing as to the precise basis for the department's denial of Claimant's FIP application, the Administrative Law Judge is unable to make a reasoned, informed decision regarding this issue.

Accordingly, this Administrative Law Judge finds the department has failed to carry its burden of proof and did not provide the information necessary to enable this Administrative Law Judge to determine whether the department followed applicable policy in denying Claimant's July 26, 2012 FIP application, as required by 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 denying Claimant's July 26, 2012 FIP application. Therefore, the department's denial of Claimant's FIP application effective August 16, 2012 is **REVERSED** and the department shall immediately recalculate Claimant's FIP benefit eligibility effective August 16, 2012 and issue any supplemental checks if she is otherwise entitled to them.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 15, 2013

Date Mailed: February 15, 2013

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 60 days of the filing of the original request.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision

201275766/SDS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

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

SDS/cr

cc:

