

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201310347
Issue No.: 2026, 3016
Case No.: [REDACTED]
Hearing Date: January 15, 2013
County: Oakland 03

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 January 15, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's spouse). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Supervisor) and [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) benefits and Adult Medical Program (AMP) case?

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 active for FAP and MA at all times.
2. Claimant had a group size of 6 (six).
3. Claimant was active for an MA deductible.
4. The Department received a redetermination packet on September 19, 2012 which indicated that an adult member of the FAP group was ineligible due to student status.

5. On October 31, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's FAP to \$ [REDACTED] and denied Claimant and his spouse Ms. Khalil AMP benefits.
6. On November 5, 2012, Claimant requested a hearing regarding FAP and AMP.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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.

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. BAM 600. 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.

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. BAM 600. 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

Here, the Department's hearing summary indicates that the Department "has taken action to correct the FAP based upon the group size and income. However, upon receiving the redetermination packet the FAP was rebudget [sic] as one member is ineligible due to student status. The medical program was instated [sic]."

Claimant, on the other hand, contends that the Department's FAP calculations are inaccurate due to failure to properly include certain expenses. Claimant also challenged the Department's income calculation with regard to FAP. With regard to AMP, Claimant contends that the DHS-1605 which denied the AMP was misleading and/or confusing.

This Administrative Law Judge has reviewed the Department's exhibits and the documents do not line up with the Department's testimony in this matter. The Department representatives who attended the hearing and the hearing summary indicated that Claimant's FAP was reduced from 6 to 5 because a member of the group was recently ineligible due to student status. In addition the DHS-1605 incorrectly indicated that Claimant's (and his spouse's) AMP was denied because "you are not under 21, pregnant, or a caretaker of a minor child in your home. You are not over 65 (aged), blind, or disabled." Moreover, the DHS-1605 did not indicate that Claimant's group sized had been reduced from 6 to 5. Rather, the DHS-1605 provides that the proper FAP group size is 6.

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 contain a clear statement of the case action or facts which led to the action. BAM 600. 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. Unfortunately, the DHS-3050 did not provide any insight regarding the relevant Department action giving rise to Claimant's hearing request. During the hearing, the Department representatives did not clearly and succinctly articulate the nature of the Department's actions giving rise to the request for a hearing.

Although the hearing packet was not devoid of records, none of the records buried within the papers effectively shed light on the precise issues in controversy nor did they explain the rationale behind the Department's actions. For example, why did the DHS-1605 indicate that Claimant's FAP had reduced but the group sized remained at 6? Why did the DHS-1605 improperly indicate the reasons for denial of the AMP? Why did the DHS-1605 even reference AMP? Did Claimant recently apply for AMP?

Based on the lack of documentation and the inability of the department representatives to sufficiently explain the Department's actions, 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 reduction and AMP eligibility.

Therefore, the Department's determinations are **REVERSED** and the Department is hereby instructed to do the following within 10 days of the date of this order:

- Initiate a redetermination of Claimant's eligibility for FAP and AMP benefits.
- Following the redetermination, the Department shall send Claimant a DHS-1605 or equivalent correspondence.
- The Department shall also issue any retroactive benefits that Claimant is entitled to receive.

IT IS SO ORDERED.

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

Date Signed: January 25, 2013

Date Mailed: January 28, 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 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 at

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

CAP/cr

cc:

