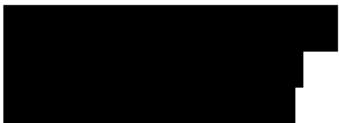


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 201340566  
Issue No.: 1021, 2018, 3019  
Case No.: [REDACTED]  
Hearing Date: May 15, 2013  
County: Arenac

**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 Claimant's request for a hearing received on April 8, 2013. After due notice, a telephone hearing was held on May 15, 2013. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

**ISSUE**

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) benefits?

**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 April 8, 2013, Claimant requested a hearing concerning FIP, FAP and MA. On the request for hearing, Claimant indicated she was disabled.
2. On April 15, 2013, the Department prepared a hearing summary and hearing packet which indicated that Claimant applied for MA and "cash assistance" claiming disability on January 28, 2013. The Department contends that Claimant's disability based MA and SDA application was denied on March 22, 2013. The Department further contends that Claimant's FAP was not affected.

3. The Department provided the Administrative Law Judge with a hearing packet that contained only 1 (one) exhibit which was the cover page of Claimant's Assistance Application (DHS-1171).
4. No other documents were included in the hearing packet.

### **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.

The Department local office has 15 (fifteen) days from receipt of hearing request to do **all** of the following: (1) log the request; (2) contact the client or authorized hearing representative; (3) obtain and submit to MAHS verification of the authorized hearing representative's prior authorization, if needed; (4) arrange a prehearing conference<sup>1</sup> including all appropriate staff; (5) determine the nature of the complaint; and (6) forward the request with either a DHS-18A, Hearing Request Withdrawal, or a DHS-3050 to MAHS so that MAHS receives them by the 15 (fifteenth) day.

Policy requires the Department resolve disagreements and misunderstandings quickly at the lowest possible level to avoid unnecessary hearings. BAM 600. Upon receipt of a

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<sup>1</sup> The conference need not be **held** within the 15 day standard.

hearing request, the Department should schedule a prehearing conference with the client or authorized hearing representative and conduct a supervisory review. BAM 600 at page 12. The client or authorized hearing representative is not required to phone or meet with any Department staff in order to have a hearing and any notice of prehearing conference must explain this. See BAM 600 page 12.

Upon receipt of the hearing request from the hearings coordinator, the Department's first-line supervisor reviews the disputed case action for accuracy according to policy and fact and determines if the request is timely. BAM 600 at page 12.

Department policy further discusses the importance of conducting a prehearing conference. See BAM 600 pages 12 and 13. The policy provides that the Department must assure that clients receive the services and assistance to which they are entitled. BAM 600. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or authorized hearing representative rather than through a hearing. BAM 600.

When the Department conducts a prehearing conference, the Department must do **all** of the following: (1) determine why the client or authorized hearing representative is disputing the DHS action; (2) review any documentation the client or authorized hearing representative has to support his allegation; (3) explain the department's position and identify and discuss the differences; (4) determine whether the dispute can be resolved locally or requires MAHS to resolve; (5) mention to clients the availability of reimbursement for child care or transportation costs incurred in order to attend the hearing. BAM 600 p 13.

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.

Clients and AHRs have the right to review the case record and obtain copies of needed documents and materials relevant to the hearing. BAM 600. The Department must send a copy of the DHS-3050 and all documents and records to be used by the department at the hearing to the client **and** AHR. DHS-4772, Hearing Summary Letter, may be used for this purpose. BAM 600. However, there are 3 (three) exceptions. **Exception #1:** The Department may **not** disclose the identity of any person who has reported information relating to an alleged program violation. **Exception #2:** The Department **cannot** provide access to case records restricted by law or specific orders of a court; see BAM 310. **Exception #3:** Access to certain mental health records is restricted; see BAM 310. See 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.

Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600.

During the hearing, the ALJ will follow the same rules used in circuit court ***to the extent these rules are practical in the case being heard***. BAM 600. **The ALJ must ensure that the record is complete**, and may do the following: (1) take an active role in questioning witnesses and parties; (2) assist either side to be sure all the necessary information is presented on the record; (3) be more lenient than a circuit court judge in deciding what evidence may be presented; and (4) refuse to accept evidence that the ALJ believes is unduly repetitious, immaterial, irrelevant or incompetent.. 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.

Claimant's request for a hearing in the instant matter clearly concerns the following programs: the Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance or Medicaid (MA) program. These programs are summarized below.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R

400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

In the instant matter, the Department has failed to include any documentation that corresponds to Claimant's request for a hearing concerning FIP, FAP and MA. The Department must include objective evidence concerning the programs in disputes. The hearing summary is not evidence. The Department did not even include the Notice of Case Action (DHS-1605) concerning FIP, FAP and MA. Based on the lack of documentation, this Administrative Law Judge is unable to make a reasoned, informed decision. To the extent Claimant sought to request a hearing concerning disability, the Department has not followed proper protocol in this regard. In addition, there were no medical records contained in the hearing packet.

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, FIP and MA eligibility.

Therefore, the Department's determinations are **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- Redetermine Claimant's eligibility for FIP, FAP and MA back to the date of closure.
- In the event Claimant requests another hearing on this issue, the Department shall follow BAM 600 in the preparation of the hearing packet.
- To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental benefits.

IT IS SO ORDERED.

/s/

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

Date Signed: May 17, 2013

Date Mailed: May 20, 2013

**NOTICE**: 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/aca

cc:

