

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: [REDACTED]
Issue No.: 1015, 3002
Case No.: [REDACTED]
Hearing Date: June 26, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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. After due notice, a hearing was held on June 26, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services determine the proper amount of Claimant's Family Independence Program (FIP) benefits on May 14, 2013?

Did the Department of Human Services determine the proper amount of Claimant's Food Assistance Program (FAP) benefits on May 14, 2013?

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 an ongoing recipient of Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.
- (2) On November 16, 2012, Claimant began employment.
- (3) On April 19, 2013, Claimant withdrew a request for hearing on a proposed action to reduce her Family Independence Program (FIP) and Food Assistance Program (FAP) due to earned income.

- (4) On May 14, 2013, Partnership, Accountability, Training, Hope (PATH) sent DHS copies of Claimant's pay check stubs from up until March 22, 2013. The earned income was entered into BRIDGES and Claimant was sent a Notice of Case Action (DHS-1605) which stated that on June 1, 2013, [REDACTED] Family Independence Program (FIP) and Food Assistance Program (FAP) benefits would decrease due to earned income.
- (5) On May 28, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated [REDACTED] Family Independence Program (FIP) would close due to non-cooperation with the Office of Child Support.
- (6) On May 30, 2013, Claimant submitted a request for hearing on the May 14, 2013 Notice of Case Action (DHS-1605).

CONCLUSIONS OF LAW

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 of Human Services (DHS or 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 Program Reference Manual (PRM).

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 (PRM).

Claimant asserts [REDACTED] employment ended in early April so [REDACTED] benefits should not be reduced because [REDACTED] no longer has earned income. Claimant testified that a different DHS case worker accepted the documentation [REDACTED] has regarding the end of [REDACTED] employment. Review of [REDACTED] Claimant's eligibility summary (Page 18) and a Hearing Request Withdrawal (DHS-18A) Claimant signed on April 19, 2013 (Claimant's exhibit A page 1) supports this assertion. The case worker who took the present action testified that the documentation submitted was insufficient. No other information was provided regarding the Departments reassessment of the April 19, 2013 authorization of Claimant's FIP and FAP eligibility.

The document at issue was submitted into evidence (Claimant's exhibit A pages 3&4). Claimant's exhibit A page 3 appears to be an electronic communication dated April 8 from [REDACTED], who signed Claimant's verification of employment on November 21, 2012. (Page 38). Claimant's exhibit A page 4 is only partially visible. What is visible fits with the information on page 3 and Claimant's assertions about the termination of [REDACTED] employment.

A handwritten note at the top of page 38 indicates a Verification Checklist (DHS Form 3503) was sent out with verifications due on May 24, 2013. There is not a copy of that Verification Checklist (DHS Form 3503) in the record and neither party provided testimony about a Verification Checklist (DHS Form 3503).

Department of Human Services Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts (2012) is the applicable policy for this situation. BAM 130 page 1 provides for obtaining verification when an eligibility factor is unclear, inconsistent, incomplete or contradictory. When a new case worker took over, it was completely within [REDACTED] discretion to seek verification of Claimant's earned income or the end of that earned income. However, seeking verification about Claimant's earned income, or lack of, must be done in accordance with BAM 130. Those requirements include sending out a Verification Checklist (DHS Form 3503) and/or Verification of Employment (DHS Form 38) and allowing Claimant ten days to provide the required verification before sending out a negative action notice. The Department has not provided evidence to show the procedure in BAM 130 was followed. In fact, the evidence indicates that the negative action notice was sent the same day as any Verification Checklist (DHS Form 3503) or Verification of Employment (DHS Form 38) went out. In the absence of evidence showing the Department followed its own policy, this action cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department did not follow policy in making Claimant's May 14, 2013 eligibility determination for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits. Therefore, the eligibility determination cannot be found to be correct.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) eligibility beginning June 1, 2013 be determined in accordance with Department policy. Any benefits she was otherwise eligible for but did not receive will be supplemented.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 07/02/2013

Date Mailed: 07/02/2013

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

GFH/sw

cc:

