

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

**IN THE MATTER OF:**



Reg. No.: 2012-1  
Issue Nos.: 3008, 5008  
Case No.: [REDACTED]  
Hearing Date: October 26, 2011  
County: Wayne (82-76)

**ADMINISTRATIVE LAW JUDGE:** Jan Leventer

**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 October 26, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly close Claimant's case for Food Assistance Program (FAP) benefits and deny Claimant's application for State Emergency Relief (SER) assistance with energy or utility services?

**FINDINGS OF FACT**

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

1. In 2011, Claimant was an ongoing recipient of FAP benefits with a FAP group size of four people.
2. On July 25, 2011, Claimant applied for SER assistance with energy or utility services.
3. On July 28, 2011, the Department issued an Application Notice denying SER benefits to Claimant for the reason that her family group did not meet program

requirements pursuant to the Emergency Relief Manual Item 103, "Application Procedures."

4. On August 11, 2011, Claimant reapplied for SER assistance with energy or utility services.
5. On August 19, 2011, the Department issued a second Application Notice denying SER benefits to Claimant for the reason that she failed to provide information needed to determine eligibility pursuant to Bridges Administrative Manual Item 130, "Verification and Collateral Contacts."
6. Also on August 19, 2011, the Department issued a Notice of Case Action closing Claimant's FAP benefits effective September 7, 2011, for the reason that a group member does not meet program requirements, and for the reason that Claimant "failed to verify or allow the department to verify information necessary to determine eligibility for this program."
7. On August 31, 2011, Claimant filed a Request for Hearing regarding the two denials of her SER applications, and a Request for Hearing regarding the closure of her FAP benefits.

### **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 State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1993 MACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

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 1999 AC, Rule 400.3001 through Rule 400.3015.

In this case, the Department's own records indicated that [REDACTED], Claimant's daughter and her children (Claimant's grandchildren) lived at the same address as Claimant and received Medical Assistance (MA or Medicaid) benefits at that address. Exhibit 1, p. 16. Claimant gave credible and un rebutted testimony that the [REDACTED] family group did not live there with her at the time Claimant received FAP benefits and at the times she applied for SER. Claimant gave credible and un rebutted testimony that [REDACTED] and her family at one time inhabited the upstairs flat in the house, but was never a part of Claimant's home in the lower flat on the first floor. Claimant testified that

██████████ children are, to the best of Claimant's knowledge, currently homeless and stay temporarily with a series of friends.

Claimant informed the Department of these facts verbally and in writing, but the Department rejected her statements without investigating further into the truth of the matter. The Department was in fact providing MA benefits to ██████████ and could easily have initiated contact with her on its own to verify her address, but it made no effort to do so.

It is found and determined that the Department first failed to follow its own policy, BAM 130, "Verification and Collateral Contacts," when it gave Claimant an opportunity to resolve a discrepancy that occurred with regard to Claimant's group composition, but then failed to accept her explanation or investigate its own MA grantee. The Department failed to follow BAM 130 a second time when it failed to offer help to Claimant in gathering the necessary information. In addition, with regard to FAP, BAM 105, "Rights and Responsibilities," requires that the Department must not use as a reason for denial of FAP benefits, the refusal of a third party to cooperate in the verification process. It is found and determined that BAM 105 was also violated in that the Department failed to protect the client's rights to FAP and SER benefits.

### **DECISION AND ORDER**

With regard to Claimant's FAP benefits, the Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly.       did not act properly.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC  SER decision is  AFFIRMED  REVERSED for the reasons stated on the record.

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

1. Reinstate Claimant's SER and FAP cases;
2. Initiate procedures to allow Claimant an extension of time to provide DTE any other documentation necessary to provide SER utility assistance for her former and present residences as appropriate;
3. Initiate procedures to process Claimant's SER application;
4. Initiate procedures to assist Claimant to verify that ██████████ and her family group are not living in the same home with Claimant;
5. Initiate procedures to provide retroactive and ongoing FAP benefits to Claimant at the benefit level to which she is entitled.

6. All steps shall be taken in accordance with Department policy and procedure.



**Jan Leventer**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: October 31, 2011

Date Mailed: October 31, 2011

**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

JL/pf

cc:

