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

IN THE MATTER OF:

| Reg. No: | 2012-14172 |
|-----------|------------|
| Issue No: | 3015 |
| Case No: | |
| | |

January 4, 2012 Kent County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 telephone hearing was held on January 4, 2012. Claimant appeared and testified.

ISSUES

Did the Department of Human Services (department) properly reduce the claimant's Food Assistance Program (FAP) 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. The claimant was an FAP benefit recipient for himself and three children.
- 2. On October 31, 2011 the department received information regarding claimant's shelter expenses.
- 3. On November 7, 2011, the Department caseworker sent claimant notice that her MA benefits would be reduced because her shelter deduction had changed.
- 4. On November 16, 2011, claimant filed a request for a hearing to contest the department's negative action.

CONCLUSIONS OF LAW

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 or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that 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 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).

In the instant case, the caseworker who worked on the case was not available to testify. The caseworker who appeared had no evidence beyond the hearing summary to offer as justification for the actions taken. The department's action must be reversed under the circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant's FAP benefits should be reduced.

Accordingly, the Department's decision REVERSED. The department is ORDERED to re-evaluate claimant's eligibility for FAP benefits ad to notify claimant in writing of the appropriate amount that she is entitled to receive under department policy.

<u>__/s/_____</u>

Landis Y. Lain Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: <u>1/6/12</u>

Date Mailed: <u>1/6/12</u>

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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 60 days of the filing of the original request.

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.

LYL/ds