

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-26521
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 16, 2012
County: Wayne (82-49)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 February 16, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly exclude Claimant's increased shelter expenses from Claimant's FAP budget between August 2011 and January 31, 2012?

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 is an ongoing recipient of FAP benefits.
2. On August 10, 2011, Claimant filed a Change Report with the Department indicating that she had a new address.
3. On August 11, 2011, the Department sent Claimant a Verification of Shelter form requesting that Claimant submit proof of her new shelter expenses or have her landlord complete the form.

4. The Department included Claimant's increased shelter expenses in her FAP budget for February 1, 2012, ongoing, after it received verification of Claimant's shelter expenses in connection with her December 2011 FAP redetermination.
5. On January 18, 2012, Claimant filed a hearing request, disputing the Department's action, contending that she submitted her new shelter information to the Department shortly after moving into her new home.

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 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 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.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98

and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, shelter expenses are considered in the calculation of a client's FAP budget. BEM 554. The Department must verify shelter expenses when a change is reported. BEM 554.

In this case, Claimant notified the Department of her new address in a Change Report she submitted on August 10, 2011. Although the Department testified that Claimant turned in a blank Verification of Shelter form with her Change Report, because Claimant submitted her Change Report on August 10, 2011, as verified by the Department's time-stamp on the document, and the Shelter Verification form is dated August 11, 2011, the evidence does not support the Department's testimony that Claimant submitted a blank document. It is more likely that the Shelter Verification form was sent to Claimant by the Department for completion after Claimant notified the Department of her address change, consistent with Department policy. See BEM 554.

The Department further testified that it did not receive information about Claimant's shelter expenses until Claimant completed and submitted her FAP redetermination packet on December 28, 2011. The Department incorporated Claimant's increased shelter expenses, as evidenced in her redetermination material, and adjusted her FAP budget for February 1, 2012, ongoing. At the hearing, however, Claimant contended that she submitted information regarding her increased housing expenses to the Department in August 2011 and that these expenses should have been included in her FAP budgets beginning from the time she submitted evidence of them.

Claimant credibly testified that she had her landlord fax the completed Shelter Verification form in August 2011. She further credibly testified that she retrieved this completed form from her apartment manager after it was faxed and submitted a copy of the document with her redetermination material. The Department testified that it did not receive a completed Shelter Verification form by fax in August 2011 but did receive the completed form by mail on January 9, 2012, after Claimant submitted her redetermination form. The Shelter Verification form the Department received was dated August 24, 2011, consistent with Claimant's testimony that her apartment manager completed the form in August 2011. Claimant also submitted into evidence at the hearing a note from her apartment manager who stated that she faxed over a completed shelter form in August 2011 to both Claimant's current worker and a prior worker. Because the evidence established that Claimant submitted verification of her shelter expenses to the Department in August 2011 in the form of the completed Verification of Shelter form dated August 24, 2011, the Department did not act in accordance with Department policy when it failed to include Claimant's updated shelter expenses in Claimant's FAP budget from August 24, 2011, ongoing.

DECISION AND ORDER

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 when

did not act properly when it failed to consider Claimant's increased shelter expenses in calculating her FAP budget for August 24, 2011, ongoing.

Accordingly, the Department's 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. Recalculate Claimant's FAP budget for August 24, 2011, ongoing to include Claimant's increased shelter expenses, in accordance with Department policy;
2. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from August 24, 2011, ongoing; and
3. Notify Claimant of its decision in writing in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 22, 2012

Date Mailed: February 22, 2012

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

ACE/pf

cc:

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A. Elkin