

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

IN THE MATTER OF:



Reg. No.: 2012-41775
Issue No.: 3000
Case No.: [REDACTED]
Hearing Date: April 23, 2012
County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 April 23, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly implement the February 23, 2012, order of Administrative Law Judge Susan C. Burke?

FINDINGS OF FACT

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

1. On February 15, 2012, an Administrative Hearing was held before Administrative Law Judge (ALJ) Susan C. Burke.
2. At that hearing, ALJ Burke issued a Decision and Order to "initiate recalculation of Claimant's FAP benefits, using current income regarding income and expense, effective January 1, 2012 and ongoing", and to "initiate issuance of FAP supplements for any missed or increased payments, January 1, 2012 and ongoing, if Claimant is otherwise eligible for FAP, in accordance with Department policy."
3. Claimant's FAP benefit recalculation and supplemental issuance was only issued for March, 2012, onward.

4. The local office attempted to comply with the order, but was told by the Policy Unit that ALJ Burke's order was not in accordance with policy and they would not open the benefits retroactive to January 1, 2012.
5. The Department did not appeal ALJ Burke's order.
6. Claimant requested a hearing on March 27, 2012, alleging that the Department had failed to comply with ALJ Burke's order.

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.

ALJ Burke issued a Decision and Order on February 23, 2012. As of the date of this hearing, this order has not been complied with by the Department.

The Department admitted at hearing that it had failed to comply with the order, that the order had not been appealed, and that the Policy Unit and Help Desk, apparently believing the order to be contrary to policy, had refused to act on the local office's request to comply.

The undersigned ALJ is not aware of any policy or law that allows the Policy Unit and the Help Desk to override the lawful order of an Administrative Law Judge. If the Policy Unit and Help Desk felt that ALJ Burke's order was contrary to policy and law, the Policy Unit and Help Desk could have filed a reconsideration request, rehearing request, or Circuit Court Appeal.

The Policy Unit and Help Desk did not do so, and the time to file such reconsiderations and appeals has passed.

Therefore, ALJ Burke's order is valid, and the Department must comply with that order.

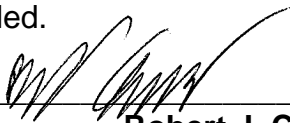
DECISION AND ORDER

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 failing to comply with the February 23, 2012, order of ALJ Susan C. Burke.

Accordingly, the Department's AMP FIP FAP MA SDA CDC 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. Comply with the February 23, 2012, order of ALJ Susan C. Burke by recalculating claimant's FAP budgets retroactive to a date of January 1, 2012, and initiating any supplemental benefits to which claimant is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 25, 2012

Date Mailed: April 25, 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

RJC/pf

cc:

