

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

IN THE MATTER OF:



Reg. No.: 2012-25186
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: March 8, 2012
County: Wayne (82-31)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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, an in-person hearing was held on March 8, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance Program (FAP) benefits?

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 June 1, 2011, Claimant moved into a new residence.
2. On September 20, 2011, the Department issued a notice of case change. This notice informed Claimant his FAP benefits were being decreased effective October 1, 2011. The new FAP amount established for the Claimant was \$335.
3. On October 28, 2011, the Department issued a notice form regarding another program benefit from the Hamtramck district office with Claimant's new address.

4. On December 17, 2011, the Department issued a notice of case change. This notice informed the Claimant his FAP benefits were being decreased effective January 1, 2012. The new FAP amount established for Claimant was \$324.
5. On December 28, 2011, the Department was informed by an email from an inter-agency representative that Claimant had moved.
6. On January 3, 2012, Claimant requested a hearing asserting he had reported his address change and the Department failed to change his shelter costs effective the month of his move.
7. On January 12, 2012, a case conference was held via telephone with Claimant and the Department. Claimant wished to continue forward with his hearing.

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.

Claimant asserts he attempted to inform the Department of his new residence at the end of May 2011 and the first of June 2011. Claimant testified he was unable to leave a message on the worker's voicemail because the voicemail was full. Claimant testified he moved June 1, 2011. Claimant informed the Department of these attempts on December 29, 2011, at the Hamtramck district office. Claimant testified he made several calls to the Wayne County Department Director to report his move. The Department representative testified she did meet with Claimant on May 25, 2011, and drafted a letter for him. The Department testified that Claimant did not mention a pending move. Claimant testified he stopped into the local Department office during the last week of May and attempted to see his Department worker and was told he needed to make an appointment. Claimant testified he continued to contact the Department through the Wayne County Department Director's office via telephone following his attempts in May and June 2011. The Department worker testified she first learned of the new address from the Hamtramck office. The Department, upon receiving the new address, did process a FAP budget change effective January 2012 increasing Claimant's FAP benefits.

Claimant is requesting consideration of his FAP benefits back to June 2011. Claimant submitted his hearing request on January 3, 2012. This Administrative Law Judge is restricted to the 90 days prior to the hearing request. Clients have 90 days from the date of the Department's negative action to request an administrative hearing. According to MAC R 400.904(4), a client is given 90 days from the mailing of the proper notice of case action to request a hearing. On September 20, 2011, the Department sent notice to Claimant indicating its intent to reduce his FAP benefits. This notice was sent to the old address but the Claimant testified he did, in fact, receive the notice. Claimant failed to request a hearing within 90 days of the mailing of the notice of the Department's action. Therefore, only October 2011 through January 2012 can be considered in this decision. The prior months requested are DISMISSED as untimely.

In the instant case this Administrative Law Judge must determine when the Department was notified of Claimant's address change and when the Department should have corrected Claimant's FAP benefit case to reflect the address change. The first evidence of an address change appears to be on a Department notice dated October 28, 2011, sent from the Hamtramck office which indicated the new address on a different case number assigned to Claimant. This Administrative Law Judge finds the Department representative's testimony credible regarding when she was personally informed of the

new address. However the issue is not necessarily when the worker was informed of the address change but when the Department was made aware of the address change.

This Administrative Law Judge finds the testimony from Claimant credible regarding his communication with the Wayne County Director's office. The Department representative was unable to rebut Claimant's assertion that he, in fact, had called the Director's office to report his address change. The address was evidently changed on another case Claimant had with the Department as reflected in the notice sent by the Hamtramck district in October 2011. Claimant is responsible for reporting an address change to the Department. In this case, it appears the Department did have knowledge of the address change in October 2011. Therefore, the Department should have completed a review of Claimant's case and adjusted his FAP benefits in accordance with his shelter cost change. Once the Department receives information such as an address change, the Department is responsible to make certain all benefit cases handled by the Department have the correct information.


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 process a shelter change for the month of October 1, 2011 due a shelter cost change.

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. Initiate a review of the Claimant's FAP case;
2. Complete a new budget reflecting the Claimant's new shelter costs effective October 1, 2011;
3. Issue a supplement of FAP benefits if eligible beginning October 1, 2011.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 12, 2012

Date Mailed: March 12, 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

JWO/pf

cc:

