

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201270323
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: September 13, 2012
County: Wayne DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 13, 2012, from Detroit, Michigan. Participants included the above named claimant; [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 9/2012 based on reported information.

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 was an ongoing FAP benefit recipient.
2. Claimant's ongoing FAP benefits factored Claimant's housing expenses.
3. On an unspecified date, it was reported to DHS that Claimant was temporarily living at the home of a relative.
4. It was reported to DHS that Claimant's homestead was unoccupied during her absence and that she intended to return soon to her homestead.

5. On an unspecified date, DHS processed Claimant's FAP benefit eligibility, in part, by excluding housing expenses for Claimant's homestead because she was not living at her homestead.
6. On either 7/17/12 or 7/26/12, DHS determined Claimant's FAP benefit eligibility effective 9/2012, in part, based on a continued exclusion of homestead expenses.
7. On 8/8/12, Claimant requested a hearing to dispute the exclusion of homestead expenses from the FAP benefit determination effective 9/2012.
8. Claimant also requested a hearing to dispute the amount of income budgeted in the FAP benefit determination which Claimant concedes has since been resolved.
9. Claimant also requested a hearing to dispute an issue concerning Medical Assistance which Claimant also concedes has since been resolved.

CONCLUSIONS OF LAW

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. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute an issue concerning Medical Assistance and FAP benefits. Claimant's AHR conceded that the MA benefit issue was resolved prior to the hearing. Claimant's AHR also conceded that DHS corrected an income issue in Claimant's FAP benefit determination. The only issue left in dispute was the undisputed DHS failure to budget Claimant's housing expenses in the FAP benefit determination for 9/2012.

Claimant's AHR (who was Claimant's son) testified that Claimant moved out of her home in early 2012, so she could temporarily reside with relatives during a time of need. Claimant's AHR testified that his mother returned to her home on 5/31/2012. Claimant contended that his mother still had housing expenses for her residence during the time she did not live there and that DHS erred by not factoring the expenses in the FAP benefit determination for 9/2012. DHS contended that Claimant was not eligible for housing expenses during a time she did not live at the property, and that Claimant and her AHR failed to report any change in Claimant's residency.

The deciding issue was thought to be whether Claimant ever reported to DHS that she returned to live in the house where she had a monthly housing obligation. Before considering this issue, it must first be considered whether DHS properly disregarded Claimant's reporting housing expenses. DHS looked at the issue very simply, if

Claimant did not live at her home for several months, Claimant should not have received a credit for paying housing expenses.

Concerning FAP benefit eligibility, DHS is to allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (1/2011), p. 10. An implied requirement is that the client lives in the home from where the expenses occur.

DHS is to allow shelter costs for a home temporarily unoccupied by the FAP group due to: employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss. DHS is to include shelter costs for a temporarily unoccupied home, provided all of the following are true:

- the FAP group intends to return to the home;
- the current occupants of the home, if any, are not claiming shelter costs on that home for FAP purposes; and
- the home is not being leased or rented to others during the FAP group's absence.


The above policy supports finding that DHS erred in failing to budget Claimant's reported housing expenses. There was no dispute that Claimant's absence from her house was temporary. There was no evidence that there were any other occupants of the home during Claimant's absence from the home. There was similarly no evidence that the home was leased during Claimant's absence. It is mildly debatable whether Claimant's absence was caused by an illness. Claimant's AHR testified that his mother lived with relatives for a brief time because of Claimant's deafness. It is unknown whether Claimant had other health problems. The evidence was sufficient to establish absence from the homestead due to illness. Accordingly, DHS should never have stopped budgeting Claimant's reported housing expenses despite the absence from her homestead.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP benefit eligibility effective 9/2012. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility, effective 9/2012, subject to the finding that DHS should not have removed Claimant's reported and verified housing expenses; and
- (2) supplement Claimant for any FAP benefits not received as a result of the budgeting error.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 9/21/2012

Date Mailed: 9/21/2012

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

CG/hw

cc:

