

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-977
Issue No.: 3014; 5000
Case No.: [REDACTED]
Hearing Date: October 27, 2011
County: Oakland County

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 October 27, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Case Manager.

ISSUE

Did the Department properly determine Claimant's group size and close Claimant's case for the Food Assistance Program (FAP)?

Did the Department properly deny Claimant's State Emergency Relief application for housing?

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 received benefits for FAP in June of 2010.
2. In June of 2010, Claimant's group size increased from four to five with the birth of Claimant's child.
3. The Department increased Claimant's group size to five in October, 2010.
4. The Department closed Claimant's FAP case effective October 1, 2010 for an unknown reason

5. The Department issued to Claimant a State Emergency Relief Decision Notice on September 8, 2010, stating that Claimant's housing was not affordable.
6. On September 14, 2010, Claimant filed a hearing request, protesting the action taken by the Department with respect to FAP and SER.
7. Claimant's housing emergency was resolved by her moving into transitional housing.

CONCLUSIONS OF LAW

FAP

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 1999 AC, Rule 400.3001 through Rule 400.3015.

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

Group size is considered in calculating a FAP budget. BEM 556.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 130. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide the information should be extended at least once. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130.

In the present case, the Department did not dispute that Claimant gave birth in June of 2010 and her group size was increased from four to five. However, Claimant's FAP benefits were improperly calculated using the group size of four until October of 2010.

In addition, the Department was not able to substantiate that Claimant's FAP case was closed properly in October of 2010. A Notice of Missed Interview was proffered by the Department at the hearing, but no Notice of Interview was presented by the Department. In addition, Claimant stated that had she known of an interview she would have attended. It is noted that the Department did not present a Notice of Case Action showing the reason for closure of Claimant's FAP case; it was only speculated that the FAP case was closed due to Claimant not attending an interview. So even if the case closed due to Claimant failing to cooperate by not attending an interview, I am not convinced that Claimant failed to cooperate, as there was no proof that Claimant was

sent proper notice of an interview. Therefore it cannot be found that the Department was correct in closing Claimant's FAP case in October of 2010.

SER

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400-7049. Department of Human Services (Department or DHS) policies are found in the State Emergency Relief Manual (ERM).

SER 101 states that a requirement for an SER payment to be issued is that the person must have an emergency which threatens health, or safety and can be resolved through the issuance of SER.

In the present case, Claimant stated at the hearing that her housing situation has been resolved, so an SER payment would not resolve an emergency. Therefore, Claimant's request for hearing with respect to SER will be dismissed.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that the Department improperly calculated Claimant's FAP benefits due to an incorrect group size and that the Department improperly closed Claimant's FAP case. It is further concluded that the issue regarding SER is moot.

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

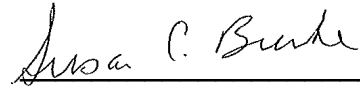
did act properly. did not act properly.

Accordingly, it is ORDERED that the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated within 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 re-calculation of Claimant's FAP budget, effective June 1, 2010, and ongoing using the correct group size.
2. Initiate reinstatement of Claimant's FAP case, effective October 1, 2010, if Claimant is otherwise eligible for FAP.
3. Initiate issuance of FAP supplements for any missed or increased payments, June 1, 2010 and ongoing, if Claimant is otherwise eligible for FAP.

It is further ORDERED that Claimant's request for a hearing regarding SER is DISMISSED as the emergency has been resolved.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/2/11

Date Mailed: 11/2/11

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.

2012-977/SCB

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/sm

cc:

