

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201316971
Issue No.: 3015; 5016
Case No.: [REDACTED]
Hearing Date: January 16, 2013
County: Oakland (03)

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 January 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on excess income?

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance in connection with energy services?

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 recipient of FAP benefits.
2. On November 27, 2012, Claimant applied for SER assistance to pay her outstanding electric bills.
3. On November 27, 2012, the Department notified Claimant that she was not eligible for SER assistance because of excess income.

4. On December 5, 2012, after the Department had recalculated Claimant's income for SER purposes, the Department sent Claimant a SER Decision Notice informing her that it would pay \$365 towards her energy services by December 25, 2012 and Claimant would not be required to pay any amounts.
5. In connection with agreeing to pay \$365 for electrical services, the Department advised Claimant that she would have to terminate her participation in the provider's shut-off protection payment plan.
6. The Department did not pay any amounts towards electrical services that Claimant requested in her SER application.
7. In connection with the SER application, the Department became aware of Claimant's earned income and recalculated Claimant's FAP budget.
8. On December 11, 2012, the Department sent Claimant a Notice of Case Action informing her that her FAP case would close effective January 1, 2013 based on her net income exceeding the FAP net income limit for her group size.
9. On December 4, 2012, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Emergency Relief Manual (ERM) and Department of Human Services 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 Mich Admin Code, 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.

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 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Closure of FAP Case

At the hearing, the Department's presented the FAP budget showing the calculation of Claimant's FAP eligibility. A review of this budget shows that the Department calculated Claimant's earned income based on pay received on October 12, 2012, and October 26, 2012, in accordance with Department policy. BEM 505 (October 1, 2010), p 6. Claimant verified her group's unearned income of \$804 and her FAP group size of 4. The Department applied the correct standard deduction for Claimant's group size. RFT 255 (October 1, 2012).

At the hearing, the Department testified that because Claimant had not timely submitted her verification of shelter expenses, it did not consider Claimant's rent in calculating her excess shelter deduction. Verification of shelter expenses is required at application and when a change in shelter is reported. BEM 554 (October 1, 2012). In this case, the Department testified that the recalculation of Claimant's FAP budget was due to the Department's discovery of Claimant's employment income when Claimant submitted a November 27, 2012 SER application. The recalculation was *not* due to an application or a reported change concerning Claimant's shelter. Because the Department should have continued to use the shelter expenses that had been previously verified, it did not act in accordance with Department policy when it excluded Claimant's shelter expenses in calculating Claimant's FAP benefits.

SER Application

On November 27, 2012, Claimant applied for SER assistance with her electrical services. That same day, the Department informed Claimant that she was not eligible for SER assistance because of excess income and advised her to seek another remedy. Claimant credibly testified that she contacted her provider and entered into a shut-off protection payment plan. The Department testified that it subsequently concluded that Claimant was in fact income-eligible for SER assistance, and on December 5, 2012, sent her a SER Decision Notice advising her that it would pay the amount owed to the provider by December 25, 2012, with no shortfall or contribution payment required from her. The Department also verified that it told Claimant that she had to terminate the shut-off protection plan in order for the Department to pay the approved amount. Claimant credibly testified that she terminated the plan after a few days but when she received another shut-off notice from the provider on December 18 or 19, she assumed the Department did not intend to pay and placed her case back on the shut-off protection plan to avoid having her electrical services shut off. The Department testified that it reviewed Claimant's status on the provider's secured website on December 7, 2012, and because Claimant continued to be covered under the shut-off protection plan on that day, it was unable to issue payment. The Department further testified that because Claimant's file was subsequently transferred to another office, it did not check the provider's website again.

The Department must continue to verify the emergency and needed amount. ERM 401 (August 1, 2012), p 1. Because the Department testified that the SER Decision Notice provided that payment could be made up to December 25, 2012, the Department did not act in accordance with Department policy when it failed to review the status of Claimant's case on the provider's website after December 7, 2012, particularly in light of the circumstances in this case where Claimant placed her case in the shut-off protection plan based on the Department's initial assessment of her SER application and the SER Decision Notice advised her that she had until December 25, 2012 for the Department to make its approved payment.

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 closed Claimant's FAP case for excess income and failed to comply with the SER Decision Notice by paying the amount indicated to the provider of electrical services.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case as of January 1, 2013;
2. Begin recalculating Claimant's F AP bud get in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claim ant for any FAP benefits she was eligible to receive but did not from January 1, 2013, ongoing;
4. Notify Claimant in writing of its F AP decision in accordance with Department policy; and
5. Issue supplements to Claimant's provider of electrical services in the amount of \$367 pursuant to the December 5, 2012, SER Decision Notice.



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

Date Signed: January 24, 2013

Date Mailed: January 24, 2013

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/cl

cc:

