

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201323591
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: February 13, 2013
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 February 13, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant and her Authorized Hearing Representative, [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Manager (FIM) [REDACTED] and Case Manager (CM) [REDACTED].

ISSUE

Did the Department properly take action to reduce the Claimant's monthly Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

1. The Claimant was a recipient of monthly FAP benefits in the amount of \$ [REDACTED]
2. On December 13, 2012, the Claimant's daughter was removed from the Claimant's FAP case, as she applied for benefits for herself and stated that she no longer lived with the Claimant.
3. On December 13, 2012, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment had declined to \$ [REDACTED]

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 ACS, 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.

In this case, the Claimant testified that she moved from one county to another and that she had two case workers in her previous county and three different case workers in her current county. The Department testified that her new income was prospectively reduced and her group composition was reduced by one. The Claimant testified that after her income was verified, in November and December 1, 2012, she called her workers to report that

her hours were less than 40 hours a week. The Claimant testified that she continued to call in December and then in January and in February of 2013 as well. The Department testified that the Claimant has had three different workers in their county and that her verification of income was received on or about January 10, 2013 and that the Claimant's income has not decreased as the Claimant has asserted. The Claimant contested that her income has not decreased.

There is no current verification of the Claimant's earned income in the record and how much the Claimant is currently earning and has earned in November, December and January is a contested fact. Furthermore, the uncontested testimony of the Claimant is that she has been attempting to report a reduction in income since November, but could not get return calls from any of the different workers she has had until recently. Furthermore, the Administrative Law Judge questioned why the Claimant's gross income was listed under the net earned income column in the budget and the Department could not answer that question. Therefore, the evidence is found to be insufficient to establish that the Department was acting in accordance with their policy when taking action to reduce the Claimant's monthly FAP allotment.

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 taking action to reduce the Claimant's monthly FAP allotment.

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 action to re-determine the Claimant's eligibility for FAP based on all current and past check stubs back to November 1, 2012.
2. Initiate action to issue the Claimant any supplements that she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/22/13

Date Mailed: 3/22/13

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

SEH/cr

cc:

