

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201332183
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 2, 2013
County: Wayne 49

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 April 2, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Manager (FIM) [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 an ongoing recipient of FAP benefits in a monthly allotment of \$ [REDACTED]
2. On December 19, 2012, the Department received the Claimant's January 2013 Semi-annual report, which reported no changes in her monthly child support payments of \$ [REDACTED]
3. Subsequently, the Claimant's case worker ran a consolidated income inquiry which revealed that the Claimant was not paying any child support.
4. On January 12, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment had been reduced to \$ [REDACTED]

5. On February 26, 2013, the Department received the Claimant's written hearing request protesting the reduction in the Claimant's monthly FAP allotment.

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.

The Claimant's case worker was not present at the hearing and the FIM present therefore presented the case for the department. The Claimant testified that she informed her case worker, in July of 2012, that her [REDACTED] obligation was reduced to \$ [REDACTED]. The Claimant testified that her caseworker also knew that some of her child

support payments went to [REDACTED] for one of her [REDACTED] located there. The Claimant testified that her case worker told her that she only cared about child support payments in [REDACTED]. Regardless, the DHS-1406, Semi-Annual contact report, under section 3, reads as follows:

The total amount of child support expenses used in your monthly food assistance budget is \$ [REDACTED]. Has any household member had a change in his/her legal obligation to pay child support?

The Claimant answered that question "no."

During the hearing, there was confusing testimony regarding the Claimant paying [REDACTED] of \$ [REDACTED] and then being reimbursed from the [REDACTED] the same amount of \$ [REDACTED]. The FIM present at the hearing testified that the Claimant had, subsequent to the creation of the hearing packet, faxed in [REDACTED]. The Claimant testified these [REDACTED] were her verification of her [REDACTED] payments to [REDACTED]. The FIM present at the hearing felt that the [REDACTED] were insufficient verification of those child support payments.

Bridges Eligibility Manual (BEM) 554 (2012) p. 1, 2 provides that an expense is allowed if all of the following:

- The service is provided by someone outside of the FAP group.
- Someone in the FAP group has the responsibility to pay for the service in money.
- Verification is provided, if required.

Responsibility to pay means that the expense is in the name of a person in the FAP group.

The Department does **not** allow any expense if the entire expense is directly paid by an agency or someone outside of the group. If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, the Department allows **only** the amount that the group is responsible to pay, **unless** specific policy directs otherwise.

An expense that is fully reimbursed is not allowed; see BEM 500, Reimbursements. The Department **must** verify the responsibility to pay and the amount of certain expenses.

The Department shall **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

BEM 554 pp. 5,6 provides that the Department verify child support expenses and arrearages paid to non-household members at application, redetermination and when a change is reported. All of the following must be verified:

- The household's legal obligation to pay.
- The monthly amount of the obligation for current child support.
- The amount of child support the household actually pays.

Current payments must be entered separately from arrearage payments on Bridges. A separate arrearage order is not needed to allow arrearage payments. If it is verified that child support payments are court ordered, the original court order also serves as verification of the arrearage. Acceptable verification sources include, but are **not** limited to:

For the household's legal obligation to pay and current obligation amount:

- Court or administrative order.
- Legally enforceable separation agreement.

For the household's actual child support and arrearages paid:

- Wage withholding statements.
- Verification of withholding from unemployment compensation or other unearned income.
- Statements from the custodial parent regarding direct payments.
- Statements from the custodial parent regarding third party payments the noncustodial parent pays or expects to pay on behalf of the custodial parent.
- Data obtained from the state's Child Support Enforcement System (MICSES).

Documents that are accepted as verification of the household's legal obligation to pay child support and arrearages are **not** acceptable as verification of the household's actual monthly payment.

The FIM at the hearing testified that the Claimant's [REDACTED] [REDACTED] were confusing and that the Claimant was being reimbursed the child support payments she made from the [REDACTED]. It was uncontested that the Claimant's [REDACTED] [REDACTED] do not differentiate between what [REDACTED] [REDACTED] is paid to [REDACTED] and what [REDACTED] [REDACTED] is paid to [REDACTED]. This is the crux of the issue, as it was also not contested that the Claimant is reimbursed her [REDACTED] [REDACTED] payments from the [REDACTED] of [REDACTED] which would make that expense unallowable under the Department's policy. The Claimant asserted that her case worker has been on notice for almost a year at the time of hearing that some of the child support goes to [REDACTED]. The FIM at the hearing testified that the consolidated inquiry run by the Claimant's case worker only addresses [REDACTED] [REDACTED] paid in [REDACTED].

Bridges Administrative Manual (BAM) 130 (2012) p. 1 instructs the Departments workers to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. In this case, there is contradictory information because the Claimant reported that she continued to pay \$ [REDACTED] in [REDACTED] [REDACTED] payments, yet the Department's worker's consolidated inquiry reported that the Claimant paid nothing for [REDACTED] [REDACTED] payments. Furthermore, the uncontested testimony was that the Department's worker had notice that the Claimant paid [REDACTED].

██████ in ██████ and that the consolidated inquiry only addressed ██████ ██████ paid in ██████

BAM 130 pp. 2, 3 instructs the Department's case worker to tell the Claimant what verification is required and how to obtain it using the DHS-3503, Verification Checklist. The client must obtain required verification, but the Department's case worker must assist if they need and request help. If neither the client nor the case worker can obtain verification despite a reasonable effort, the case worker is to use the best available information. If **no** evidence is available, the case worker is to use his/her best judgment.

In this case, the Department took action to reduce the Claimant's monthly FAP allotment without giving the Claimant an opportunity to address the contradictory information. The Department should have issued the Claimant a DHS-3503, Verification Checklist instructing the Claimant regarding what verification of ██████ ██████ payments to submit. Therefore, the Administrative Law Judge concludes that when the Department took action to reduce the Claimant's monthly FAP allotment, the Department was not acting in accordance with its policy.

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 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**.

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 redetermine the Claimant's eligibility for FAP back to February 1, 2013, and
2. during that process issue the Claimant a DHS-3503, Verification Checklist instructing the Claimant regarding acceptable verification of her child support expenses, and
3. Initiate action to issue the Claimant any supplements she may thereafter be due.

/s/

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

Date Signed: 4/5/13

Date Mailed: 4/5/13

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/tb

cc:

