

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201344037
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Macomb 20

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 May 30, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Medical Contact Worker (MCW).

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 is an ongoing recipient of monthly FAP benefits in the amount of \$200.00.
2. There is no DHS-1605 Notice of Case Action in evidence, however; the hearing summary indicates that on April 24, 2013, the Claimant was notified that her monthly FAP allotment would be reduced to \$166.00.
3. On April 30, 2013, the Department received the Claimant's hearing request protesting the reduction in her 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 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 Department and the Claimant testified that both the Claimant's FAP and MA cases closed subsequent to the reduction of her FAP allotment. The parties had to be reminded, several times, that the Administrative Law Judge was deciding whether or not the Department acted in accordance with its policy when taking that action. The Claimant was instructed to request a hearing on the FAP and MA closure if

she was protesting that action. The Department's MCW was told that her proposed exhibits, which were promulgated after the Claimant was notified of the reduction in her FAP allotment, were irrelevant and excluded from the record. Those proposed exhibits addressed the issue of FAP and MA case closure which is not before the Administrative Law Judge.

During the hearing, the Claimant protested the Department's determination of her income as being \$600.00. The Claimant testified that the statements in evidence (the Department's first three exhibits) from her friends indicate that they assist her financially when they are able to. The Department's hearing summary indicates that the MCA used her best judgment in determining the Claimant's income. There was no explanation given as to how the amount of \$600.00 was determined and the Department's Exhibit 1, 2, and 3, contain no monetary amounts.

Bridges Administrative Manual (BAM) 130 (2012) p. 3 permits the Department's MCA to use her best judgment in making the determination of income if no evidence is available. BAM 130 p. 2 instructs the Department's workers to assist the Claimant in obtaining verification, including making a collateral contact, which would also include direct contact with a person. In this case, the MCW likely should have telephoned the persons who submitted the statements which are Department's Exhibits 1, 2 and 3 and asked those individuals directly how much money they contribute to the Claimant's expenses and how often they contribute to the Claimant's expenses. As there is no evidence to indicate how it is that the Department determined the Claimant's monthly income, and as the Claimant did contest that she receives \$600.00 a month from others, the Administrative Law Judge determines that the evidence is insufficient to establish that the Department was acting in accordance with its 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 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.

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 back to the date her allotment was reduced from \$200.00 to \$166.00, and

2. Initiate action to issue the Claimant any supplement she may thereafter be due.

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

Date Signed: 5/31/13

Date Mailed: 5/31/13

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:

