

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12558
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: December 12, 2013
County: Monroe

ADMINISTRATIVE LAW JUDGE: Katherine Talbot

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on December 12, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist, and [REDACTED], Regulation Agent.

ISSUE

Did the Department properly decrease the Claimant's Food Assistance Program (FAP) benefits?

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 receiving Food Assistance Program (FAP) benefits for a group of four. The Claimant and [REDACTED] were in the group prior to November of 2013.
2. [REDACTED], a Regulation Agent, began an investigation because the Department received a complaint that [REDACTED] Claimant's [REDACTED] no longer resided in the home.
3. [REDACTED] discovered that [REDACTED] had been living with his [REDACTED] since approximately June of 2013.

4. The Claimant confirmed that [REDACTED] had left her home and was staying at his [REDACTED] residence.
5. The Claimant confirmed that she did not report the fact that [REDACTED] had left her home to the Department. She asserted he still had belongings in the home. The Claimant asserted [REDACTED] had not moved out.
6. [REDACTED] also determined that the two other [REDACTED] [REDACTED] resided more than half the time with their [REDACTED].
7. The Claimant confirmed that the father of [REDACTED], had custody of the [REDACTED] for one half day longer than her, pursuant to the [REDACTED].
8. On November 1, 2013, the Department sent the Claimant a Notice of Case Action which reduced her FAP benefits. Exhibit 3. The group size was reduced from four to one; the [REDACTED] were removed from the group. *Id.*

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 Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The Claimant's Food Assistance Program (FAP) benefits were reduced because the group size was reduced from four to one on November 1, 2013. The Department determined that the Claimant's [REDACTED] should not be counted in the group because they reside with their respective [REDACTED] more than half the time.

The Claimant's testimony was self-serving and not credible. She confirmed that the [REDACTED] of [REDACTED] had custody of the [REDACTED] for one half day longer than her. However, the Claimant asserted that the [REDACTED] did not stay with their [REDACTED] during all the time allowed. She testified the [REDACTED] frequently stayed with her during the time granted to the [REDACTED]. She did not present any evidence to corroborate this assertion.

And, the Claimant admitted that [REDACTED] left her home approximately [REDACTED]. She stated he [REDACTED]. The Claimant confirmed that he was residing in the [REDACTED] home. Then, the Claimant asserted that [REDACTED] had not left her home because he left belongings behind. Again, the Claimant did not present any corroboration. Irregardless, the Administrative Law Judge does not find a person resides in a home simply because he has belongings in that home. The stronger evidence indicates that [REDACTED] did not live in the claimant's home.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it decrease the Claimant's Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

/s/ _____
Katherine Talbot
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/19/13

Date Mailed: 12/19/13

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

KT/tb

cc:

