

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201358475
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: August 21, 2013
County: Kalamazoo

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 August 21, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Assistance Payments Supervisor (APS), [REDACTED] and Eligibility Specialist (ES), [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 monthly FAP benefits in the amount of \$ [REDACTED].
2. On May 28, 2013, the Department's ES received the Claimant's DHS-1010, Redetermination.
3. On June 5, 2013, the Department sent the Claimant a DHS-3688, Shelter Verification form.
4. On June 10, 2013, the first page of the DHS-3688, Shelter Verification Form was faxed to the Department, but the second, signature page faxed was completely blank.

5. On June 12, 2013, the Department's ES telephoned the Claimant and left a message informing the Claimant that the Department had only received the first page of the DHS-3688, Shelter Verification form and stating that the Department still needed the completed second page of that form.
6. On June 26, 2013, the Department certified the Claimant's FAP case without a shelter deduction as the completed DHS-3688, Shelter Verification form has still not been returned.
7. On June 26, 2013, the Department's ES sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment was reduced to \$193.00, effective July 1, 2013.
8. On June 28, 2013, the Department's ES sent the Claimant a DHS-100 quick note informing the Claimant that the Department had still not received a completed DHS-3688, Shelter Verification form.
9. On June 28, 2013, the Claimant telephoned the Department's ES to determine whether or not the ES had received the completed DHS-3688, Shelter Verification form, as she asserted it was faxed again. The Department did not receive a completed DHS-3688, Shelter Verification form.
10. On July 2, 2013, the Department's ES made a collateral contact with the Claimant's Landlord to verify her shelter expense.
11. On July 2, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment increased to \$ [REDACTED] effective August 1, 2013.
12. On July 15, 2013, the Department received the Claimant's written hearing request protesting the reduction in her monthly FAP allotment and requesting to be supplemented for the month of July to account for her shelter expense and her lack of child support income.

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.

During the hearing, the testimony of both the Department and Claimant was that the Claimant's ████████ did not properly fax the completed DHS-3688, Shelter Verification form to the Department the first time and the Department never did receive a second fax. Based on the record in this case, it was the Claimant's ████████ who delayed submitting the completed DHS-3688, Shelter Verification form and the Department cannot therefore be faulted for that expense being disallowed in the Claimant's FAP budget. The Department's ES notified the Claimant by voicemail on June 12, 2013 that the DHS-3688, Shelter Verification form was lacking the signature page and that the signature page was required. Yet, the Claimant nor her Landlord submitted a completed DHS-3688, Shelter Verification. Ultimately, once it became apparent that the Claimant was having difficulty obtaining the completed DHS-3688, Shelter Verification form, it was the Department's ES that obtained the verification by making a collateral contact to the Claimant's Landlord.

Bridges Administrative Manual (BAM) 130 (2012) pp. 2, 3, provides that a collateral contact is a direct contact with a person, organization or agency to verify information from the Claimant. It further provides that it might be necessary to make such a contact

when documentation is not available or when available evidence needs clarification. The Claimant must obtain required verification, but the Department's ES must assist if they need and request help. Bridges Assistance Manual (BAM) 130 (2012) p. 2, provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date. In this case, the Department did that by sending the Claimant a DHS-3688, Shelter Verification form.

Bridges Assistance Manual (BAM) 130 (2012) p. 5, provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the client indicates a refusal to provide a verification, or when the time period given has elapsed and the client has not made a reasonable effort to provide it.

In this case, the Administrative Law Judge finds that the Department did assist the Claimant by telephoning the Claimant to inform her, twice, that no completed DHS-3688, Shelter Verification form had been received from her Landlord, and by ultimately obtaining the verification for her by making a collateral contact. That the Claimant's FAP was reduced in the month of July for failing to verify the shelter expense is in large part the Claimant's fault as the Department's ES notified the Claimant on June 12, 2013 that the form which was submitted was insufficient as lacking the signature page. Regarding reducing the FAP for lack of a verified shelter expense, the Administrative Law Judge determines that the time period to submit the verification had lapsed and the Claimant had made no reasonable effort to provide the verification. As such, the Administrative Law Judge concludes that the Department has met its burden of establishing that it was acting in accordance with policy when taking action to reduce the Claimant's FAP allotment for lack of a verified shelter expense.

The Claimant also protested in her hearing request that she had child support income attributed to her incorrectly, further reducing her monthly FAP allotment for the June 26, 2013 determination. The Department could not address this issue with any certainty during the hearing. There was no FAP budget in evidence to determine what was counted for child support income. As such, regarding attributing child support income to the Claimant's FAP budget in the June 26, 2013 determination, the Administrative Law Judge determines that the evidence is insufficient to establish that the Department was acting in accordance with its policy.

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 excluding the Claimant's shelter expense in the June 26, 2013 FAP allotment determination. the evidence is insufficient to establish that the Department acted properly when calculating the Claimant's income for FAP in the June 26, 2013 determination.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED in part. REVERSED in part.

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 by re-determining whether or not the Claimant's child support income or lack thereof was properly accounted for in the FAP budget, 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: 8/22/13

Date Mailed: 8/23/13

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.

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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:

