

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013 588
Issue No.: 5003, 3008
Case No.: [REDACTED]
Hearing Date: December 13, 2012
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 13, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and a witness, [REDACTED] who also appeared. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly reduce the Claimant's Food Assistance August 2012 for failure to return the redetermination?

Did the Department properly deny the Claimant's SER application?

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 requested a hearing about the reduction of her food assistance benefits in August 2012 and the denial of her SER application. Several of the hearing requests contained in the file have address labels with her apartment number shown on the label.
2. At the hearing the Department did not provide the application for SER and the Decision Notice for SER that it referred to in its Hearing Summary.

3. The Department received 2 returned mail letters addressed to the Claimant. The letters did not include the Claimant's apartment number.
4. The Department did not establish what address the Claimant used on her SER application referred to in the hearing summary.
5. The Department did not have the case file for the Claimant at the hearing.
6. The Department did not present a FAP budget to demonstrate why the Claimant's FAP benefits were reduced in August 2012.
7. The Claimant requested a hearing on August 21, 2012 protesting the Department's actions due to no apartment number in her mailing address.

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 AACRS, 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 State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, the Department was unable to present any information at the hearing regarding whether the Department sent documents to the Claimant at the correct address other than the returned mail. The evidence showed that the Claimant had received benefits for quite some time without any difficulty receiving documents and thus it was incumbent on the Department to produce the SER application to determine what address was provided by the Claimant so a determination could be made as to whether the Department sent the various notices and redetermination to the correct address for the Claimant. The Claimant credibly testified that she did not have trouble receiving her mail and did not ever receive the redetermination. As the Department did not have the case file at the hearing it could not determine what address of record was shown on the SER application and the Claimant's prior applications for FAP which were the two benefits affected which were addressed in the Department's hearing summary. The Department also could not address the basis for the SER decision as no decision notice was provided nor was the basis for the FAP benefit reduction addressed. The issues raised by the Claimant's hearing request were not addressed as stated above and thus the Department did not meet its burden of proof to demonstrate that its actions were correct and in accordance with Department 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 when . . . did not act properly when it calculated the Claimant's FAP benefits and/or closed Claimant's FAP case for August 2012 and denied the Claimant's SER application.

Accordingly, the Department's AMP FIP FAP MA SDA CDC and SER 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. The Department shall initiate recalculation of the Claimant's benefits for August 2012 FAP and if required, allow the Claimant an opportunity to complete her redetermination in order to do so.
2. The Department shall also re-register the Claimant's SER application referred to in its hearing summary and reprocess the SER application to determine Claimant's eligibility.
3. If the FAP benefits as issued after recalculation are determined to be incorrect, the Department shall issue a supplement if appropriate for any benefits the Claimant was otherwise entitled to receive in accordance with Department policy.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 2012

Date Mailed: December 19, 2012

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

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

LMF/cl

cc:

