

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

IN THE MATTER OF:



Reg. No.: 2014 34526
Issue No(s) : 3002
Case No.: [REDACTED]
Hearing Date: May 14, 2014
County: Wayne County DHS 43

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department fail to comply with the verification requirements, when processing the Claimant's redetermination regarding:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
FIP FAP MA SDA CDC
benefits.
2. Claimant was required to submit requested verification by 4/10/14 regarding her shelter expenses.

3. On May 1, 2014, the Department conducted a redetermination, the Department pursuant to a redetermination sent the Claimant a verification checklist dated regarding her shelter expenses.
4. The Claimant received the verification and responded to it in a timely manner.
5. At the hearing the Claimant withdrew her hearing request regarding the denial of March 26, 2013 SER application for her electric and gas bill.
6. On April 1 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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

Additionally, the Department sought verification as part of a redetermination of the Claimant's shelter expenses as regards her food assistance. Prior to the redetermination month of May 2014 the Claimant applied for SER assistance and indicated to the Department that she had a mortgage expense. Based upon this disclosure, the Department testified it sent a Verification Checklist to Claimant so that shelter expenses could be verified. BEM 554 requires that the Department verify the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs when a change is reported. BEM 554 pp.14, (5/1/14). The Claimant responded to the verification request in a timely manner providing utility bills which were requested. Exhibit 1

The Claimant testified that she had previously provided mortgage information to the Department in February 2014 and thus did not provide the information again. At the hearing, the Department testified that it did not have any mortgage or other shelter verifications in the file other than utility bills. Based upon the evidence presented it is determined that the Claimant did provide verification of housing expense. Apparently based upon the Claimant's testimony at the hearing the Claimant is not able to pay for

her mortgage and has no income, Therefore, it may turn out that the only shelter expenses are the utility costs.

Based upon the evidence provided the Claimant did respond to the most recent verification in a timely manner and did not provide mortgage information perhaps because she could not obtain it from the mortgage company and is not paying her mortgage at this time, or at least did not advise the Department of the problem she was having obtaining the information when she filed the verification. Notwithstanding this confusion, it is determined that the Claimant did not understand that she was required to provide the information as requested or advise the Department that she could not provide the information regarding her mortgage.

Therefore, the Department must issue a second verification requesting mortgage information, and provide any forms which it requires to be completed by the Claimant and process the Claimant's redetermination accordingly. BAM 130

In order to receive credit for a housing expense the Claimant must verify the expense. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condominium or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. **The expense must be a continuing one.** Payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. BEM 554 pp, 12-13 (5/1/14).

The issue may be that it is not the mortgage information that is required, but whether the Claimant in fact makes a mortgage payment or if she receives monetary assistance from others to make her mortgage payment. With respect to the mortgage, the Claimant must present evidence of her housing costs and her mortgage costs and must demonstrate what she pays on a monthly basis so that the appropriate determination regarding actual shelter expenses to be included when calculating the Claimant's Food Assistance benefits can be made.

Acceptable verification sources include, but are not limited to:

- Mortgage, rental or condominium maintenance fees contracts or a statement from the landlord, bank or mortgage company.
- Copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification form. A copy of this form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done

in Bridges. The due date will be on the form. The specialist must monitor for return of the form and take appropriate action if it is or is not returned. Current lease. BEM 554 pp.14.

If the Claimant is not paying the mortgage on a continuing basis she is not entitled to a shelter expense for her mortgage payment. If others are paying for the mortgage on an ongoing basis the information relative to those payments, including amounts, dates and the person or agency that is making made the payment must also be provided. If verification of mortgage expense is not provided, the Department shall determine shelter expenses in accordance with Department policy based upon the information provided by the Claimant in response to the Verification Checklist ordered herein when determining ongoing Food Assistance amounts and completing the redetermination.

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

did not act in accordance with Department policy when it did not advise the Claimant that she had to provide mortgage information based upon the verification checklist requests and the fact that the Department had no such information in its file.

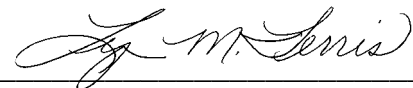
DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Issue a Verification Checklist regarding shelter expense to be completed by the Claimant and provide any shelter verification forms necessary to complete the verification regarding the Claimant's mortgage expenses, taxes and insurance.



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

Date Signed: May 16, 2014

Date Mailed: May 20, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

LMF/tm

cc:

