

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201149332
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 21, 2011
Oakland County DHS (02)

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 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on September 21, 2011. The Claimant and her spouse, [REDACTED], appeared and testified. [REDACTED], Assistance Payments Supervisor, appeared on behalf of the Department of Human Services.

ISSUE

Whether the Department correctly computed the Claimant's Food Assistance (FAP) benefits effective April 1, 2011.

Whether the Department complied with the terms of the previous decision signed 3/16/11 regarding recalculation of Food Assistance 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 Department calculated the Claimant's FAP benefits as of April 1, 2011 and did not include a medical deduction in the amount of \$6.67 for prescription drugs previously verified by the Claimant.
2. The Department conceded that it should have included a medical expense as a deduction of \$.6.67 from April 1, 2011 forward.

3. The Claimant receives FAP assistance in the amount of \$178 per month, as of September 1, 2011.
4. A medical expense deduction of \$120 for dental expenses for the period August 18, 2010, was not requested or included as an issue in the previous hearing when a thorough review of FAP benefits and expenses were made and a recalculation ordered.
5. At the hearing the Claimant indicated that he no longer wished to proceed with his hearing request regarding the Department's compliance with the 3/16/11 order, and indicated on the record that the hearing request should be considered withdrawn. The Claimant did not sign a withdrawal of hearing request before he left the DHS offices after the 9/21/11 hearing.
6. The Claimant requested a hearing on June 16, 2011 protesting the Department's compliance with a 3/16/11 hearing decision and the failure of the Department to include \$6.67 in medical expense deduction.

CONCLUSIONS OF LAW

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 of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Claimant's request for hearing regarding the Department's compliance with the Decision dated 3/16/11 was withdrawn on the record and is accordingly dismissed. This remedy is appropriate as no withdrawal was completed by the Claimant prior to leaving the DHS hearing.

The Claimant's current FAP benefits (April 1, 2011 to present) were incorrectly calculated because the Department did not include medical expense deduction of \$6.67 per month for prescription drugs. The Department conceded that it did not include the deduction. Accordingly, the Department must recalculate the FAP budgets from April 1, 2011 ongoing and include this additional medical expense. BEM 554.

Based on the foregoing analysis, the Department incorrectly calculated the Claimant's food assistance beginning April 1, 2011, when it did not include \$6.67 per month medical deduction.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, finds that the Department incorrectly calculated the Claimant's FAP benefits effective April 1, 2011 ongoing, based on not including medical expense for prescriptions, which the Claimant provided to the Department. Therefore the Department must include this medical expense and recalculate the Claimant's FAP benefits effective April 1, 2011. . The Department's determination of the FAP benefit amount as of April 1, 2011 is not correct, and is REVERSED.

Accordingly it is ORDERED:

1. The Claimant's request for hearing regarding the compliance of the Department with the 3/16/11 Decision is DISMISSED.
2. The Department shall initiate recalculation of the Claimant's FAP budget to include prescription medical expenses of \$6.67 per month beginning April 1, 2011 ongoing.
3. The Department shall issue a supplement, if any, for FAP 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: September 28, 2011

Date Mailed: September 28, 2011

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 of the rehearing decision.

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cc:



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