

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-49865
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: March 29, 2012,
May 30, 2012
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Thursday, March 29, 2012 and continued on Wednesday, May 30, 2012. The Claimant appeared and testified. Participating on behalf of Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly calculated the Claimant's food assistance ("FAP") supplement for the period from August 2007 through December 2008?

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 is a FAP recipient.
2. The Claimant's employment ended on June 15, 2007. (Exhibit 1)
3. In August and September 2007, the Claimant's group size was 5.
4. The Claimant's daughter received income as a home help provider in August and September 2007.
5. The Claimant's daughter (with the home help provider income) moved to Muskegon in September 2007.

6. The Claimant received child support income for two of her children for the period from August 2007 through December 2008.
7. The Claimant received income from child care from December 2007 through October 2008. (Exhibit 3)
8. The Claimant did not receive income from child care in November 2008.
9. The Claimant received a final child care payment in December 2008 in the amount of \$237.50. (Exhibit 3)
10. In December 2008, the Claimant began receipt of unemployment compensation benefits in the bi-weekly amount of \$426.00.
11. For the period at issue (August 2007 through December 2008), the Claimant did not have a shelter obligation but was responsible for utilities.
12. In August 2007, the Claimant received a FAP allotment of \$168.00. (Exhibit 2)
13. The Claimant did not receive further FAP benefits until March 2009 when she received a total FAP supplement of \$2,017.00.
14. The Department received several timely requests for hearing.

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, Rules 400.3101 through 400.3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996.

The Food Assistance Program ("FAP"), formerly known as the Food Stamp 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, Rules 400.3001 through 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 Mich Admin Code, Rules 400.3151 through 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, Rules 400.5001 through 400.5015.

The Department determines a client’s eligibility for program benefits based on the client’s actual income and/or prospective income. BEM 500. All countable earned and unearned income available to the client, to include unemployment compensation benefits, child support, child care income, and home help provider income, must be considered in determining the Claimant’s eligibility for program benefits. BEM 500. A group’s monthly benefits are based in part, on a prospective income determination. BEM 505. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505. Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505.

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212. In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554.

In this case, the Department determined the Claimant’s August 2007 FAP benefits were \$168.00. This calculation included earnings from employment despite the fact that the Claimant’s employment ended on June 15, 2007. After the August 2007 allotment, the Claimant did not receive any FAP benefits for the months of September 2007 through December 2008, despite several hearing requests.

In March 2009, the Department supplemented the Claimant \$2,017.00, which appears to cover a 12 month period at \$168.00/month (noting it is \$1.00 off). The Claimant

disagreed with the supplement and again requested a hearing. As noted above, the August 2007 \$168.00 FAP allotment is incorrect in that it improperly included earned income. For the months of August and September 2007, the Claimant's group size was 5 and the group income was from child support for two children and a daughter's home help provider income. The daughter with the income (home help provider) moved from the home in September 2007 which would reduce the FAP group size to 4 effective October 2007. In October and November 2007, the group size was 4 and the only income was from child support.

From December 2007 through October 2008, the group size remained 4 and income received was from child support and child care income. (see Exhibit 3) In November 2008, the Claimant's income was from child support only with the same group size of 4. Finally, in December 2008, the Claimant received a final child care provider income in the amount of \$237.50 and began receipt of unemployment compensation benefits in the amount of \$426.00/bi-weekly.

For the period at issue, August 2007 through December 2008, the Claimant did not have a shelter obligation but was responsible for utilities.

The Department acknowledged that the Claimant's FAP benefits for the period from August 2007 through December 2008 were incorrect and that the March 2009 FAP supplement was also not accurate. In light of the foregoing, the Department's FAP determinations are not upheld.

DECISION AND ORDER

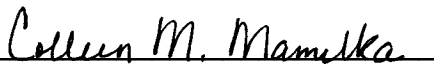
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it determined the Claimant's FAP allotment for the period from August 2007 through December 2008.

Accordingly, the Department's AMP FIP FAP MA SDA CDC 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 calculation of the Claimant's monthly FAP allotment for the period from August 2007 through December 2008 as detailed above, utilizing sources discussed on the record to include the Office of Child Support and UCB Reports in accordance with department policy.
2. The Department shall notify the Claimant of the determination in accordance with department policy.

3. The Department shall supplement for lost FAP benefits (taking in consideration of the August 2007 \$168.00 FAP allotment and the \$2,017.00 FAP March supplement) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 5, 2012

Date Mailed: June 5, 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/cl

cc:

