

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]

February

Reg
Issue
6019
Case

No: 2011-9303

No: 3003,1015,

No: [REDACTED]

Hearing Date:

28, 2011

Wayne County DHS (41)

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 conducted on February 28, 2011. The Claimant [REDACTED] and her spouse [REDACTED], appeared and testified. [REDACTED] appeared and testified as an interpreter for the Claimant. [REDACTED] Worker, and [REDACTED] were present and appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Cash Assistance ("FIP") benefits.

Whether the Department properly computed the Claimant's Food Assistance ("FAP") budget and benefits.

Whether the Claimant's hearing request regarding the closure of the Child Day Care (CDC) benefit case was timely.

FINDINGS OF FACT

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

1. The Claimant's husband receives RSDI benefits in the amount of \$864.50 and began receiving benefits October 10, 2010. Exhibit 1 SOLQ
2. The Claimant's FIP benefits (cash assistance) were reduced by the Department when her spouse was removed from the Cash Assistance case when it recalculated the FIP benefits. The Department made this change based on its understanding that Department policy requires that SSI recipients cannot be included in the FIP EDG group. Exhibit 2
3. The Claimant and her four children currently receive Cash Assistance in the amount of \$597 per month after the Claimant's spouse was removed from the FIP group. Exhibit 3
4. The Department incorrectly calculated the Claimant's FIP budget as it should have included the Claimant's spouse RSDI income when doing so.
5. The Department calculated a new FAP budget for the Claimant, based upon the RSDI income the Claimant's spouse began receiving, and included the FIP income of \$597. Exhibit 4
6. The Department included rent in the amount of \$800 and a utility allowance in the amount of \$588 when computing the excess shelter deduction. These amounts were correct.
7. The FAP budget as calculated by the Department is incorrect as the FIP income amount is incorrect, and there was no deduction shown for Medicaid premium in the amount of \$110.

8. The Department did not have an application on file for Child Day Care benefits for the Claimant. The Department records did indicate that the Claimant was eligible for CDC from January 8, 2009 through February 2009 when the CDC case closed.
9. The Claimants testified that they applied for Child Day Care (CDC) benefits. The Claimant does not work, and does not attend the Work First program. The Claimant testified that she cannot work.
10. The Claimant applied for CDC November 9, 2008. On January 8, 2009, the Claimant was found eligible for Child Day Care and brought the documentation to the hearing. The Department had no information why the case closed.
11. The Claimant's CDC closed on February 12, 2009. The day care provider did not get paid and may not have billed the Department.
12. The Claimant's hearing request regarding the CDC case closure was untimely.
13. The Claimant requested a hearing November 8, 2010, seeking a hearing regarding Cash Assistance, Food Assistance and Child Day Care. The Department received the hearing request November 8, 2010.

CONCLUSIONS OF LAW

A. FIP

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. The FIP program

replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

In this case, the Claimant questions the amount of the FIP cash allotment reduction from \$694 to \$597. Once a member of the FIP EDG group begins receiving SSI, the member can no longer be considered to be included in the group, nor are the income, assets or needs of an SSI recipient considered.

A FIP EDG member, who receives SSI, has a FIP EDG participation status of **other adult** or **other child**. The income, assets and needs of an SSI recipient are not considered in determining eligibility for the FIP EDG. However, their relationships to other EDG members are considered. BEM 201 page 6.

When [REDACTED] began receiving RSDI, the Department did not include him in the FIP EDG group as a group member and the group size was reduced from 5 members to 4 causing the FIP benefits to be reduced accordingly. However, the Department based its budget upon the Claimant receiving SSI not RSDI and incorrectly calculated the FIP benefits by not considering the RSDI income when calculating the FIP benefits. The policy above cited does not require that a person receiving RSDI not be included in the group. A different policy requires that the income from RSDI be included in the FIP calculation consideration. BEM 503 pages 20 and 21. Thus the Department's reduction of the FIP benefits is not correct and must be recalculated to include the RSDI income. The Department's calculation of the Claimant's FIP benefits is REVERSED.

B. FAP

The Food Assistance Program, 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 (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Program Reference Manual (“PRM”).

The federal regulations define household income to include unearned income including RSDI benefits. All monthly income must be converted to a nonfluctuating monthly amount. . BEM 550. Deductions for excess shelter are also required to be made. BEM 554. In this case the Claimant confirmed that the rent amount of \$800 was correct which amount was included in the FAP budget and the Department correctly included a utility allowance in the amount of \$588 which is also correct.

The department also included the FIP income of \$597 received by the Claimant and the RSDI of \$864 for a total unearned income of \$1451. Although the Department testified that it deducted for the Medicaid Part B premium of \$110 which would make the countable income \$1351 correct, ($\$1461 - \$110 = \1351) the budget it provided at the hearing does not indicate any amount was deducted for medical expense deduction. Even though the Department appears to have reached the correct net income, when reviewing the calculation of the FAP benefits, an actual verification that the Medicaid Part B premium deduction was made, could not be made on the basis of the FAP budget submitted. .

Additionally, because this decision determines that the FIP benefits were improperly calculated by the Department for the reasons cited in Section A. FIP above, as the Department failed to include the RSDI income when calculating the FIP benefits

and removed the Claimant's spouse from the FIP EDG group, the Department must also recalculate the FAP budget when it determines the correct amount of FIP benefits, if any, the Claimant is entitled to receive. This is required because the Department included an incorrect FIP income amount when calculating the FAP budget.

Based upon the foregoing facts and relevant law, and a review of the FAP budget, it is found that the Department's FAP determination is REVERSED.

C. Child Day Care

The Child Development and Care 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 of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

In this case, the Claimant applied for Child day care in November 2008 and was deemed eligible for CDC benefits. The Claimant's day care provider did not get paid and apparently did not bill for reimbursement. The CDC benefits case closed in February 2009 and no hearing was requested until November 2010. BAM 600 provides:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Id page 4.

Based upon these facts and circumstances it is found that the Claimant's hearing request was untimely and must be dismissed.

The Claimant is urged to reapply for Child Day Care Benefits so a determination can be made with regard to whether the Claimant is eligible and entitled to receive CDC benefits based on a Family Preservation basis.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not properly calculate the Claimant's FIP Cash Assistance benefits and must recalculate the FIP benefits and its determination in that regard is REVERSED.

The Department did not correctly calculate the FAP benefits to the extent it included FIP income in the FAP budget which when determined by the Department did not include the RSDI income from the Claimant's spouse and did not demonstrate that a medical deduction was made for the Medicaid Part B premium. Therefore, its determination of the FAP benefit amount is REVERSED.

The Claimant's request for hearing regarding CDC benefits was not timely, and therefore, the hearing request must be DISMISSED.

Accordingly, it is ORDERED:

1. The Department shall recalculate the Claimant's FIP benefit allotment and shall include the Claimant's spouse in the FIP EDG group and include the Claimant's spouse RSDI income when calculating the benefits.
2. The Department shall recalculate the Claimant's FAP benefits to include the correct FIP income amount, based upon the FIP recalculation ordered in paragraph 1 of this Order, and shall include a medical expense

deduction for Medicaid Part B premium if applicable, and shall also include the Claimant's RSDI income in the unearned income calculation.



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

for
Department

Date Signed: 03/30/11

Date Mailed: 03/30/11

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

LMF/dj

cc:

