

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 36043
REH/RECON 2011 54382
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 16, 2012
County: Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

DECISION AFTER REHEARING

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37, and Mich Admin Code Rule 400.919 upon an Order Granting Rehearing of a Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of a hearing conducted on December 1, 2011 mailed on December 5, 2011, in the above-captioned matter. The date of a new hearing having been assigned and due notice having been provided, a telephone hearing was conducted from Detroit, Michigan, on May 16, 2012. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] ES.

ISSUE

Did the Department properly compute the Claimant's Food Assistance (FAP) benefits for the month August 2011?

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 an ongoing recipient of FAP benefits.
2. On February 28, 2012 the Claimant requested a hearing review/ reconsideration of an Order of Dismissal for Lack of Jurisdiction dated December 15, 2011 for a hearing held December 1, 2011.
3. On April 5, 2012 an Order Granting Request for Reconsideration and Order of Reconsideration was issued which provided the following: A review of the

- hearing record and file in this matter reveals that the Claimant had several hearing requests that were related to her FAP benefits, all of which were dismissed as untimely because they related to benefit amount dating back to 2009. However, an additional case action was noted in the file dated August 9, 2011 that was not dismissed. Claimant requested a hearing on August 30, 2011, representing a timely hearing request.
4. On August 8, 2011 the Department issued a Notice of Case Action which increased the Claimant's FAP benefits to \$200 per month.
 5. In August 2011 the Claimant received \$200 in food assistance benefits.
 6. The August 30, 2011 hearing request referenced the Claimant's FAP benefits and challenged the information used to compute the benefit amount.
 7. The Order of Reconsideration ordered the following:
 - a. Claimant is entitled to a hearing at which time the ALJ must ensure that the FAP benefit process is fully explained to the Claimant.
 - b. The Department must prepare a full budget for the hearing and provide it to the Claimant and the ALJ prior to the hearing such that, at the hearing, the Claimant may be presented with details regarding the calculation of the monthly benefit amount and details regarding the information used to make that calculation.
 - c. The decision of the ALJ [original hearing 12/1/11] is affirmed as to the hearing request for the dates referenced in the Order of Dismissal that were dismissed as untimely.
 8. At the hearing conducted on May 16, 2012 the Department did not present a full FAP budget and did not present details regarding the calculation of the monthly benefit amount and details regarding the information used to make that calculation as ordered.
 9. The Department did not have a copy of the April 5, 2012 Order of Reconsideration at the hearing.
 10. The Claimant requested a hearing on August 8, 2011 protesting the calculation of her food benefits.

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 AACCS, 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.

Additionally, in this case the directive issued to the Department as Ordered by the Order Granting Request for Reconsideration and Order of Reconsideration was not complied with. The Department at the hearing held on May 16, 2012 did not present the evidence ordered to be presented at the hearing and the Department was unprepared to address or present a full FAP budget and analysis of FAP benefit computations for August 2011. It could not be determined at the hearing why the Department did not have the Order Granting Request for Reconsideration and Order of Reconsideration as the case was properly noticed for hearing under a new registration number. Because the Department did not present any evidence as to how the August 2011 benefits were calculated, no determination could be made in that regard or whether the FAP benefit amount as calculated was correct.

It is noted that the Claimant is entitled to request a hearing regarding how her benefits were calculated even though the Claimant received \$200 in FAP benefits in August 2011 which is the maximum amount which can be received by an individual. BAM 600, RFT 260.

In conclusion, based upon the evidence presented and the testimony of the parties, it is determined that the Department did not meet its burden of proof to demonstrate how it

calculated the Claimant's FAP benefits in August 2011 and therefore its August 8, 2011 Notice of Case Action with regard to the Claimant's FAP benefit amount is reversed.

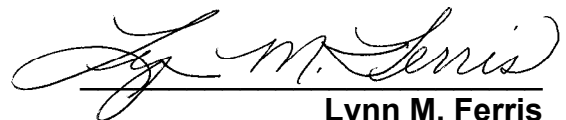
DECISION AND ORDER

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 August 2011 FAP benefits.

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 recompute the Claimant's August 2011 FAP benefits.
2. The Department shall provide the Claimant the following information with regard to the recomputation of the August 2011 FAP benefits ordered in Paragraph 1: a copy of the FAP-EDG Net Income Results; a copy of the FAP gross income test; a copy of the FAP Excess Shelter Calculation; and shall further provide the Claimant with a copy of the Shelter verification it used to determine the excess shelter deduction and a copy of the SOLQ report if applicable, or other document that the Department relied upon to determine the Claimant's unearned income for August 2011; a copy of the Medical Expenses Summary of all medical expenses the Department reviewed and included when calculating the August 2011 FAP benefits; and copies of any medical expenses submitted by the Claimant which were received by the Department and included in the August 2011 FAP budget calculation.
3. The Department shall be available to meet with the Claimant to go over the recalculated FAP budget for August 2011, the FAP budget calculations, and the documents ordered to be provided to the Claimant in Paragraph 2 of this Decision and Order if so requested by the Claimant.



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

Date Signed: May 22, 2012

Date Mailed: May 22, 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

LMF/cl

cc:

