

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201220981
Issue No.: 2018; 3002
Case No.: [REDACTED]
Hearing Date: January 19, 2012
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 telephone hearing was held on January 19, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Manager, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly recategorize Claimant's Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. Claimant is an ongoing recipient of FAP and MA benefits.
2. In a December 13, 2011, Notice of Case Action, the Department notified Claimant that, based on an increase in Claimant's income, effective December 1, 2011, Claimant's monthly FAP allotment was reduced to \$49 and effective January 1, 2012, Claimant's Medicare Savings Program benefit type was changed from Specified Low-Income Medicare Beneficiaries (SLMB) to Additional Low-Income Medicare Beneficiaries (ALMB).

3. On December 19, 2011, Claimant filed a Request for Hearing disputing the Department's action.

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 ACS, 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, at the hearing, the Department testified that the changes in Claimant's FAP and MA benefits were due to an increase in Claimant's income.

Claimant verified the amount of Retirement, Survivors, and Disability Insurance (RSDI) benefits she and her minor child received, the amount she earned as a home health care service provider, and her monthly rent amount. She also verified that there were two members in her FAP group. Based on this information, the Department calculated Claimant's gross monthly income in accordance with Department policy and properly concluded that Claimant was entitled to monthly FAP benefits of \$49 for December 1, 2011, ongoing. BEM 554; BEM 556; RFT 255.

Claimant was also concerned because her Medicare Savings Program category had been changed from SLMB to ALMB based on her income. The difference between SLMB and ALMB is that SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available, as determined by the Department of Community Health. BEM 165. The determination of whether an individual is entitled to SLMB or ALMB is based on the individual's net income. BEM 165. However, changes in RSDI income are subject to federal law requiring that, for January, February and March, (i) the RSDI cost-of-living increase received starting in January be disregarded for fiscal group members, and (ii) the income limits for the preceding December be used. BEM 165. In this case, the Department used the cost-of-living increase that Claimant was to receive in January 2012 to determine Claimant's net income for MA purposes, which resulted in an increase in Claimant's net income and a change in her categorization under the Medicare Savings Program from SLMB to ALMB. See RFT 242. The Department failed to act in accordance with Department policy when it calculated Claimant's MA budget and changed her Medicare Savings Program category.

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 it calculated Claimant's monthly FAP allotment for December 1, 2011, ongoing.

did not act properly when it changed in her categorization under the Medicare Savings Program from SLMB to ALMB.

Accordingly, for the reasons stated above and on the record, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to the calculation of Claimant's FAP benefits and REVERSED IN PART with respect to the Claimant's categorization under the Medicare Savings Program as ALMB.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Change Claimant's Medicare Savings Program eligibility from ALMB to SLMB in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 24, 2012

Date Mailed: January 24, 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

ACE/cl

cc:

